

# **A Policy Paper on the Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines<sup>1</sup>**

## **Introduction**

There are approximately 370 million indigenous peoples spread to all over 70 countries across the globe. Out of this number, there are about 5,000 different indigenous and tribal peoples in the world. It is estimated that about 4,000 to 5,000 of the more than 6,000 languages in the world are spoken by indigenous peoples. The human rights of indigenous peoples are laid out in many international human rights treaties and declarations. But in many countries, indigenous peoples continue to be oppressed, marginalized, and have little control over their resources, and their opportunities to exercise their economic, social, cultural, civil and political rights.<sup>2</sup>

The role of indigenous peoples is crucial to the world's sustainable development. They comprise five per cent of the world's population but embody 80 per cent of the world's cultural diversity. They are estimated to occupy 20% of the world's land surface but nurture 80% of the world's biodiversity on ancestral lands and territories.<sup>3</sup>

Across the globe, significant constitutional changes in different countries have improved the status of indigenous peoples. In a report on an EI survey on the Indigenous Peoples' Rights and Education, Summary 2004 reveal that the multi-cultural character of the indigenous peoples was recognized in the constitutions of Bolivia, Colombia, Ecuador, Mexico and Paraguay. Also as stated in the same report, specific legislations on the rights of indigenous peoples were passed in countries like the United States, Malaysia and the Philippines.

In September 2007, the United Nations issued a Declaration on the Rights of Indigenous Peoples that provides a universal framework of minimum standards for rights of the world's indigenous peoples, their survival, dignity and well-being. Covered by the declaration are both individual and collective rights; cultural rights and identity; rights to education, health, employment, language, and others. It also outlaws discrimination against indigenous peoples. More importantly, the declaration promotes the full and effective participation of indigenous peoples in all matters that concern them. Their right to remain distinct is also protected, as well as their right to pursue their own priorities in economic, social and cultural development.<sup>4</sup>

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<sup>1</sup> A Policy Paper written by Rosette Gilda C. Librea, DPA for Region 1 of the Commission on Human Rights of the Philippines in 2007-2008. This paper was completed with the assistance of Region 1 Director Atty. Anita Chauhan and cooperation of Atty. Homer Rusiana and Ms. Ma. Nerissa Navarro-Piamonte.

<sup>2</sup> Agenda item: 07 - Doc: 08E The Status of Indigenous Peoples' Rights and Education.

<sup>3</sup> The preparatory committee for World Summit on Sustainable Development. Second Preparatory Session. 28 January – 8 February 2002 by UN Economic and Social Council.

<sup>4</sup> United Nations Declaration on the Rights of Indigenous Peoples **adopted** by a majority of 143 states in favour, 4 votes against (Australia, Canada, New Zealand and the United States) and 11 abstentions (Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russian Federation, Samoa and Ukraine).

In October 29, 1997, the Indigenous Peoples' Rights Act of the IPRA was passed into law by the Philippine Congress. Recognizing the crucial role of the indigenous peoples in community development and nation building, the law recognizes, protects and promotes the rights of the indigenous peoples in the Philippines, who make up 18% of the national population. The law seeks to stop prejudices against tribal peoples through the recognition of certain rights over their ancestral lands, and the right to live their lives in accordance with their indigenous traditions, religions and customs.<sup>5</sup>

## **Background of the Policy Paper**

This policy paper is based on the outcome of the study entitled "*A Pilot Study on the Diagnosis of Indigenous people's Rights To Ancestral Domains and Ancestral Lands in the Philippines.*" Three pre-selected indigenous peoples are covered by the pilot study, namely: Bago Tribe in Sugpon, Ilocos Sur; Kankana-ey Tribe in Kibungan, Benguet and the Bugkalot Tribe in Nueva Viscaya, Quirino and Aurora provinces in the northern part of Luzon Island of the Philippines.

This pilot study was conducted in 2005 by Region 1 of the Commission on Human Rights of the Philippines (CHRP) in collaboration with government partners such as the National Statistical Coordination Board (NSCB), National Statistics Office (NSO), National Commission for Indigenous Peoples (NCIP) and the Statistical Research & Training Center (NRTC), as well as with civil society partners, namely: ESCR Asia, Inc., PhilRIGHTS and the Academe. Upon completion of the pilot study, the Commission initiated the development of this policy paper through a consultant-writer. The policy paper was conducted for six (6) months from April – October 2008. The paper highlights two major achievements of the pilot study that have far-reaching policy implications on the preferential attention that the government needs to provide for the protection and promotion of the rights and well-being of the indigenous peoples in the Philippines. One is the employment of the "*bottom up approach*" in conducting an evidenced-based assessment and monitoring of human rights, democracy and governance in three selected Ancestral domains in the Philippines, and another is the pioneering convergence of the government's national statistical agencies, national human rights institution, human rights NGOs, academe and collaboration with the national agency in charge of indigenous peoples in the country.

The policy outcome of the pilot study is in consonance with the guidance provided by the Metagora Coordination Team in agreement with the PARIS 21 Secretariat "*to highlight in particular the ways and means for ensuring a proper and timely handing over of the Metagora successful outcomes to relevant organizations and emerging international initiatives aimed at enhancing evidence-based assessments of human rights and democratic governance.*"<sup>6</sup>

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<sup>5</sup> The National Commission of Indigenous People was established, staffed by tribal members empowered to award certificates of title to lands claimed by the over 12 million native people in the Philippines. It awards 'ancestral' domain lands on the basis of communal rather than individual ownership, impeding unilateral sale of lands by tribal leaders. The law also requires a process of 'informed' consultation and written consent by the indigenous group to allow mining on tribal lands. The law assigns the indigenous groups a responsibility to preserve forests, watersheds and biodiversity areas in their domains from inappropriate development. At the same time, the new mining legislation and the opening up of areas to transnational mining companies is extremely threatening for these communities" (EPCP 1998).

<sup>6</sup> Metagora is a PARIS21 pilot project focusing on methods, tools and frameworks for measuring democracy, human rights and governance. Based on innovative initiatives, it aims at enhancing proper assessment methods. The Metagora Co-

## PERSPECTIVES OF THE THREE TRIBES ON THEIR RIGHTS AND RESPONSIBILITIES

This policy paper presents under this section the various perspectives of the Indigenous peoples covered by the pilot study, which have significant policy ramifications. It presents the situation of the selected tribes on the basis of their own perception, awareness and understanding of their situation, rights and responsibilities as Indigenous Peoples.

For the purpose of this policy paper and following the conceptual framework of the pilot study, the standards and pertinent provisions of the IPRA specifically the concepts of ancestral domains and ancestral lands would be cited under this section in gauging the breath and depth of the perception and awareness of the tribes. This approach will establish later, the general policy consequences that may enhance improvement of the status, realization of the rights to ancestral domains and ancestral lands and development of self-governance and empowerment of the Indigenous Peoples in the Philippines.

### A. Awareness and perception of the tribes on their rights to ancestral domains and lands

#### *General Awareness on Rights to Ancestral Domains and Ancestral Lands*

The term *ancestral land* under the IPRA refers to lands occupied by individuals, families, and clans who are members of indigenous cultural communities, including residential lots, rice terraces or paddies, private forests, swidden farms, and tree lots. These lands are required to have been “occupied, possessed, and utilized” by them or their ancestors “since time immemorial, continuously to the present. (Section 3b, IPRA). Also under the IPRA, *ancestral domains* are defined as areas generally belonging to indigenous cultural communities, including ancestral lands, forests, pasture, residential and agricultural lands, hunting grounds, worship areas, and lands no longer occupied exclusively by indigenous cultural communities but to which they had traditional access, particularly the home ranges of indigenous cultural communities who are still nomadic or shifting cultivators. Ancestral domains also include inland waters and coastal areas and natural resources therein. Again, these are required to have been “held under a claim of ownership, occupied or possessed by ICCs/IPs, by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present. (Section 3.1, IPRA). The concept of *ancestral domains and ancestral lands* is further defined under IPRA to include such concepts of territories which cover not only the physical environment but the total environment including the spiritual and cultural bonds to the area which the ICCs/IPs possess, occupy and use and to which they have claims of ownership (Section 4, IPRA).

The pilot study reveals more than 60% level of awareness of the right to ancestral domains and ancestral lands among the three tribes that were surveyed. The Bugkalot registered the highest at 79.2 % (Figure 7A) followed by the kankanaey at 78.3 % (Figure 7B) and the Bago Tribe with relatively lower level of awareness at 67.8 % as compared to the two tribes,. The Bugkalot identified the Government (54.2%) and their tribal association or council (57.1%) as the sources of information with respect to their knowledge about their rights to ancestral domains and lands. In the case of the Bago Tribe, a bigger number came to know their rights from the family (60.8%) and some from the Government (28.4%).

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ordination Team is part of the PARIS21 Secretariat. It reports to the PARIS21 Steering Committee and to the Metagora Steering Committee of Donors of the Organization for Economic Cooperation and development (OECD).

Likewise, awareness for the Kankanaeys was mostly passed on to them by the family (43.4%) and by the government (22.4%). It is significant to note that majority of the respondents across the three tribes covering a range of 83.4 % to 93.2 % are agriculture and mining workers and only a small percentage are professionals, technicians and service workers. By educational attainment, 49% to a little above 57.7% of the household population across the three tribes are elementary undergraduates.

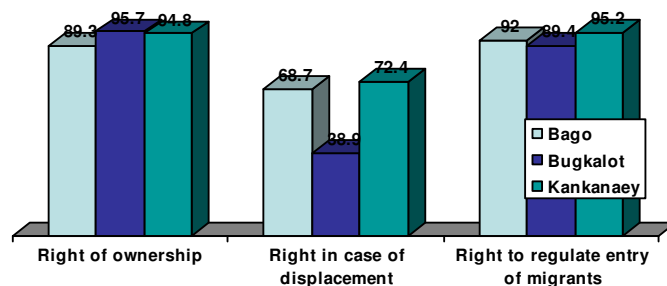
These findings on the tribes' awareness of the rights to ancestral domains and ancestral lands were further qualified by the FGD findings. There is general agreement of the positive effects of the passage of the IPRA especially in relation to ancestral domains and ancestral lands. The tribes expressed common understanding that ancestral domains are lands handed to them by their forefathers, which include water and all natural resources, while ancestral lands, as they explained are those lands in the community that they inherited from their ancestors, which are owned and utilized by community members.

#### *Perception on Specific Rights under the Rights to Ancestral Domains and Ancestral Lands*

Ancestral lands/domains shall include such concepts of territories which cover not only the physical environment but the total environment including the spiritual and cultural bonds to the area which the ICCs/IPs possess, occupy and use and to which they have claims of ownership(Section 4, IPRA). The rights of ownership and possession of ICCs/IPs to their ancestral domains shall be recognized and protected that include Rights of Ownership, Right to Develop Lands and Natural Resources, Right to Stay in the Territories, Right in Case of Displacement, Right to Regulate Entry of Migrants, Right to Safe and Clean Air and Water, Right to Claim Parts of Reservations and Right to Resolve Conflict. (Section 7, IPRA) The rights of ownership and possession of the ICCs/IPs, to their ancestral lands shall be recognized and protected as follows: Right to transfer land/property and Right to Redemption (Section 8, IPRA). Almost all the rights prescribed under the IPRA concerning ancestral domains and ancestral lands are recognized by the three tribes. However, these indigenous rights are perceived at varying degrees of understanding across the three tribes, which demand attention from the government, as follows:

*Rights of Ownership.* 85.6% agreed that the IPs have enough protection over ownership of their ancestral domains and ancestral lands (Section 7.a); 84.1% agreed that the government is helping protect the IPs' ancestral domains and ancestral lands; and 91.7% agreed that with full possession and ownership of their ancestral domains and ancestral lands, IPs can be said to fully enjoy their rights as human beings. (Figure 8.A).

**Figure 8A Perceptions on *three* rights under the rights to ancestral**



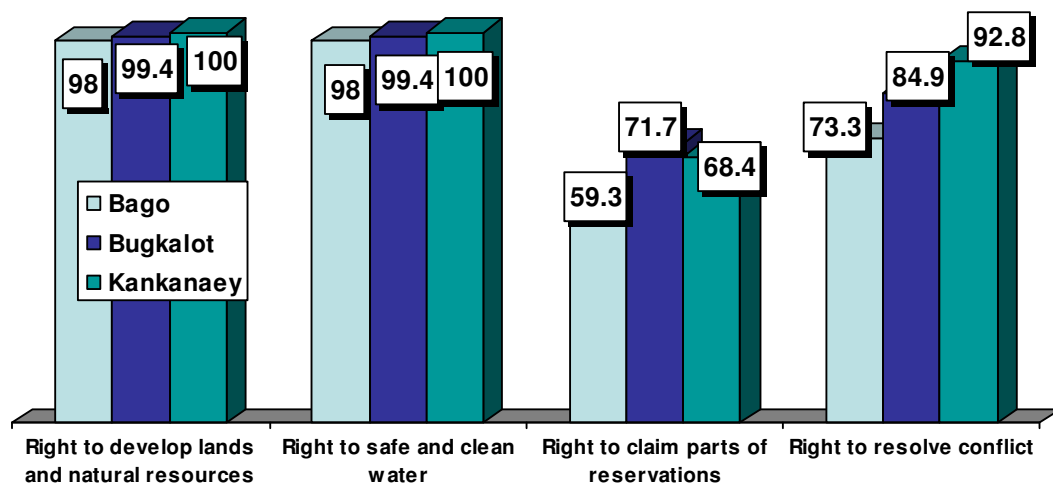
Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 28.

**Right in Case of Displacement.** 56% agreed that the government assures that in case of displacement, affected families shall be resettled in a suitable area and be provided with basic services and livelihood opportunities. Significant 44% across the tribes gave differing views under the “no” and do not know” categories of response.(Figure 8.A).

**Right to Regulate Entry of Migrants.** 85.6% agreed that members of indigenous communities can regulate entry of migrant settlers and organizations into their ancestral domains and ancestral lands. Also, 50% across the tribes responded “yes” to a question asking “*whether the act of the ancestral domain owners is lawful in exacting toll fees from vehicles plying the national highway that traverses an ancestral domain?*” The other half of the respondents was distributed to the “no” and do not know” categories of response.

**Right to Develop Lands and Natural Resources.** 96.7% agreed that IPs have the right to control, conserve, protect, develop and manage natural resources within their ancestral domains and ancestral lands. Also, 93.4% responded “yes” to a hypothetical question relative to the exercise of this right “*whether the tribe can oppose government decision if the government chose to renew the lease of a portion of an ancestral domain of a certain tribe that was leased by the government to a private corporation upon its expiration, despite the claim of possession by the tribe.*” In another hypothetical question, 75% across the tribes answered “no” to a question that inquired “*whether the government has made a right decision to give permit to a mining company for gold mining in an ancestral domain despite the fact that the ancestral domain owners also applied for a similar activity.*” On the other hand 37.9% answered “yes” to the same question. Implying divergent opinions on the interpretation of the exercise of the right to develop lands and natural resources in ancestral domain. (Figure 8.B)

**Figure 8.B Perception on Three Rights of Ancestral Domain**



Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People’s Rights to Ancestral Domains and Ancestral Lands in the Philippines

**Right to Safe and Clean Water.** 94.4% agreed that IPs' access to water resources in their ancestral domains and ancestral lands is protected from encroachment and pollution.

Divergent views were expressed across the tribes with 53.8 % answering “yes” and 37.2% answering “no” to another hypothetical situation wherein “*A mining firm wants to develop a mine in an ancestral domain; the owners of the domain demanded not only monetary and other socio-economic benefits from the company but also an environment management program; the company claims it cannot fully comply with the demands; and so the ancestral domain owners are right in demanding full compliance of their conditions?.*” (Figure 8.B)

*Right to Claim Parts of Reservations.* Divided views were observed too at significant level of 25.8% answering “yes” and 68.2% answering “no” to the hypothetical statement wherein “*The government wants to develop a portion of an ancestral domain for a wildlife sanctuary but a community of ancestral domain owners occupies a part of the desired area; hence the government resettled the affected community to another site, which it considered as the best option under the circumstances.*” (Figure 8.B)

*Right to Resolve Conflict.* High majority of 85.3% across the tribes answered “yes” to the hypothetical situation wherein “*Two clans: Clan A and Clan B have a dispute over a land area that they both claim. Resolving the case through customary laws and practices is the appropriate approach to undertake.*” (Figure 8.B)

The deliberation on specific rights guaranteed under the right to ancestral domains and ancestral lands were elaborated during the FGDs conducted for each tribe. General findings on their perception, awareness and understanding of these specific rights were all clearly articulated. The FGD findings qualified this by distinguishing that not all of the rights to ancestral domain as listed under IPRA are well understood by the members of the tribe. Among the rights listed under IPRA as rights under the rights to ancestral domains, the focus groups were more articulate in discussing the right of ownership, right to develop lands and natural resources, and the right to stay in the territories. With regard to other concepts such as human rights, ancestral lands and domains, the descriptions of the focus groups showed their indigenous interpretations of these concepts . It is noted that some of these rights mentioned appears as economic, social and cultural rights in the 1987 Philippine Constitution. IPRA was well understood as a law that has something to do with their ancestral lands and domains.

Comparing the three focus groups-tribal leaders, women and youths- the FGD findings also revealed that tribal leaders and women showed better grasp of the rights than the youths who seemed to lack adequate information or knowledge about these rights. The survey showed distinctive appreciation by the three tribes on each specific rights categorized under the rights to ancestral domain However, when asked directly about specific rights during the FGDs, the tribe members could not distinguish very well between rights that are covered by the rights to ancestral domain and rights to ancestral lands.

**Table C**  
**AWARENESS OF ACQUISITION OF TITLE TO ANCESTRAL DOMAIN**  
 Percentage Distribution of Households 2005

	All	Bago	Bugkalot / Ilongot	Kankanaey
<b>All households:</b>				
<b>Awareness of community acquisition of title to the ancestral domain or ancestral land</b>				
Aware	70.8	67.8	79.2	60.8
Not aware	24.3	24.2	17.4	34.0
Don't Know	3.5	6.0	2.6	3.2
No Response	1.3	2.0	0.6	2.0
Missing	0.1	0.0	0.3	0.0
<b>For households who are aware:</b>				
<b>Who assisted community in acquiring said title 1/</b>				
Government	44.3	63.4	33.5	51.3
NGO/PO 2/	4.3	2.0	4.7	5.3
Tribal Leaders/Elders	10.4	7.9	11.5	9.9
Others	10.5	6.9	0.7	30.9
<b>Benefits the community enjoyed because of the title 1/</b>				
Affirmation of Culture	20.7	41.6	18.3	11.2
Unity of Tribe	24.5	41.6	20.5	20.4
Empowerment of the Tribe	23.7	21.8	23.7	25.0
Others	10.7	0.0	1.4	34.9

1/ Total may exceed one hundred percent due to multiple responses  
 2/ NGO-Non-Government Organization, PO-Peoples' Organization

Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous Peoples' Domains and Ancestral Lands in the Philippines

## B. Awareness and perception of the tribes on the realization of rights to ancestral domain through acquisition of titles

### *Awareness of Acquisition of Title to Ancestral Domain*

Under the IPRA, the rights of ICCs/IPs to their ancestral domains by virtue of Native Title shall be recognized and respected. Formal recognition, when solicited by ICCs/IPs concerned, shall be embodied in a Certificate of Ancestral Domain Title (CADT), which shall recognize the title of the concerned ICCs/IPs over the territories identified and delineated (Section 11, IPRA).

The pilot study reveals large percentage of the three tribes was aware of how the community acquires titles to their ancestral domain/land as shown in the following statement of findings (Table C).

Across all the three tribes, 70% are aware how to seek community acquisition of title to the ancestral domain and ancestral land; 24.3% are not aware; and small percentage of about 5% - 6% do not know about it or chose not answer. It is significant to show how each tribe is situated with respect to this major concern on the exercise of the right to ancestral domain and ancestral land. For the Bago Tribe, 67.8% are aware; 24.2 are not aware; and 6% - 8% do not know/no response. For the Bugkalot/Ilongot, 79.2% are aware; 17.4% not aware; and about 2% -4% do not know/no response. For Kankanaey, 60% of the respondents are aware; 34% are not aware and a little more than 5% do not know/no response. This picture gives added concern for the already perceived slow pace of processing and approval of CADT and CALT, not mention still other issues concerning alleged haphazardly approved titles, which did not go through the standard procedures under the law (Table C.1Aa, C.2a and C.3a).

Table C.1Aa BAGO

Awareness of community acquisition of title to the ancestral domain or ancestral land	100
Aware	67.8
Not aware	24.2
Don't Know	6
No Response	2

Table C. 2a KANKANA-EY

Awareness of community acquisition of title to the ancestral domain or ancestral land	100.0
Aware	60.8
Not aware	24.3
Don't Know	3.5
No Response	1.3

Table C.3a BUGKALOT

Awareness of community acquisition of title to the ancestral domain or ancestral land	%
Aware	79.2
Not aware	17.4
Don't Know	2.6
No Response	0.6

Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 46-48.

The Tribes recognized the assistance obtained from various sources. On the average across all tribes, 44.3% attributed help from the government; 4.3% from NGO/PO; 10.4% from Tribal Leaders/Elders and the remaining 10.5% from others not identified. Benefits derived from the acquisition of the titles were also identified to include affirmation of culture (20.7%); unity of tribe (24.5%); empowerment of the tribe (23.7%) and others (10.7%). Highly observable is the distributive apportionment of low percentages among sources of assistance extended to both the Bugkalot/Ilongot and Kankaney, where government was not necessarily dominant.

#### *Land Ownership and Mode of Acquisition.*

Indigenous concept of ownership sustains the view that ancestral domains and all resources found therein shall serve as the material bases of their cultural integrity. The indigenous concept of ownership generally holds that ancestral domains are the ICC's/IP's private but community property which belongs to all generations and therefore cannot be sold, disposed or destroyed. It likewise covers sustainable traditional resource rights (Section 7c, IPRA).

Also, the IPRA law provides the option to secure Certificate of Title under Commonwealth Act 141, as amended, or the Land Registration Act 496.- Individual members of cultural communities, with respect to individually-owned ancestral lands who, by themselves or through their predecessors-in-interest, have been in continuous possession and occupation of the same in the concept of owner since the immemorial or for a period of not less than thirty (30) years immediately preceding the approval of this Act and uncontested by the members of the same ICCs/IPs shall have the option to secure title to their ancestral lands under the provisions of Commonwealth Act 141, as amended, or the Land Registration Act 496 (Section 12, IPRA).

The pilot study shows the status of land ownership and mode of acquisition of the three tribes as follows (Table D):



Table D

## OWNERSHIP OF RESIDENTIAL LAND, MANNER OF ACQUISITION AND LENGTH OF STAY

Percentage Distribution of Households 2005

	ALL TRIBES							
	Length of Stay in Number of Years							
	Any	31 and Over*	21-30	11-20	1-10	Less Than 1 Year	Don't Know	No Response
All Households								
Ownership of land								
Own	86.7	61.7	9.3	7.7	6.7	0.1	1.1	0.0
Not Own	12.9	6.9	0.9	2.4	2.4	0.1	0.1	0.0
Don't Know	0.4	0.1	0.0	0.1	0.1	0.0	0.0	0.0
No Response	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
For households owning the land:								
How Land was Acquired								
Thru Inheritance / since time immemorial	99.4	81.7	14.5	.7	0.9	0.0	0.5	0.2
Thru Purchase	0.5	0.3	0.2	0.0	0.0	0.0	0.0	0.0
Thru Relocation by Gov't Authority	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Others	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Don't Know	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
No Response	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

\*Or since time immemorial

Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 49

Among all tribes, 86.7% indicated they own residential land within the ancestral domain. Only 12.9 per cent stated they did not own. For households who indicated they own 99.4% stated that they acquired the land through inheritance while a negligible percentage said they purchased the residential land; hence a large percentage (61.7%) had been occupying their residential land for 31 years and over. (Table E.1, E.2 & E.3)

Table E.1 –Kankaey Tribe

OWNERSHIP OF RESIDENTIAL LAND BY LENGTH OF STAY							
Percentage Distribution of Households							
Ownership of Land	Length of Stay in Number of Years						
	Any	31 and Over	21-30	11-20	1-10	Less Than 1 Year	Don't Know
Own	92.6	61.7	8.1	10.1	11.4	0.7	0.7
Not Own	7.4	2.0	0.0	1.3	4.0	0.0	0.0

Table E.2 Bago Tribe

OWNERSHIP OF RESIDENTIAL LAND BY LENGTH OF STAY							
Percentage Distribution of Households							
Ownership of Land	Length of Stay in Number of Years						
	Any	31 and Over	21-30	11-20	1-10	Less Than 1 Year	Don't Know
Own	73.6	48.4	8.0	6.4	9.6	0.0	1.2
Not Own	25.2	14.4	2.4	4.8	3.2	0.0	0.4

Table E.3.Bugkalot Tribe

OWNERSHIP OF RESIDENTIAL LAND BY LENGTH OF STAY							
Percentage Distribution of Households							
Ownership of Land	Length of Stay in Number of Years						
	Any	31 and over	21-30	11-20	1-10	Less than 1 year	Don't know
Own	93.4	71.1	10.9	7.7	2.6	0.0	1.1
Not own	6.6	3.7	0.3	1.1	1.1	0.3	0.0

Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 52

A large majority of the Bugkalot and Bago households, about 93% owned the land where they live and ownership was largely acquired thru inheritance. In the case of the Kankanaeys, ownership was lower, at 73.6 percent. See Figures 13 A, 13B and 13C. (Figure 13B, 13C)

### Evidence of Land Ownership

Section 52.d of the IPRA enumerates the required proofs of Ancestral Domain Claims that includes the testimony of elders or community under oath, and other documents directly or indirectly attesting to the possession or occupation of the area since time immemorial by such ICCs/IPs in the concept of owners which shall

be any one (1) of the following authentic documents: Written accounts of the ICCs/IPs customs and traditions, Written accounts of the ICCs/IPs political structure and institution, Pictures showing long term occupation such as those of old improvements, burial grounds, sacred places and old villages; Historical accounts, including pacts and agreements concerning boundaries entered into by the ICCs/IPs concerned with other ICCs/IPs; Survey plans and sketch maps, Anthropological data, Genealogical surveys, Pictures and descriptive histories of traditional communal forests and hunting grounds, Pictures and descriptive histories of traditional landmarks such as mountains, rivers, creeks, ridges, hills, terraces and the like; Write-ups of names and places derived from the native dialect of the community., and Including tax declarations and proofs of payment of taxes (Section 53.c, IPRA).

As observed in the pilot study, the survey instrument did not take into consideration the proofs of ownership cited in Section 52d & 53c of the IPRA. The results of the study reveal these findings in relation to proof of ownership as follows (Table F):

**Table F**  
TITLE OR EVIDENCE OF OWNERSHIP OF LAND, WHO PROVIDED ASSISTANCE AND BENEFITS ENJOYED  
Percentage Distribution of Households  
2005

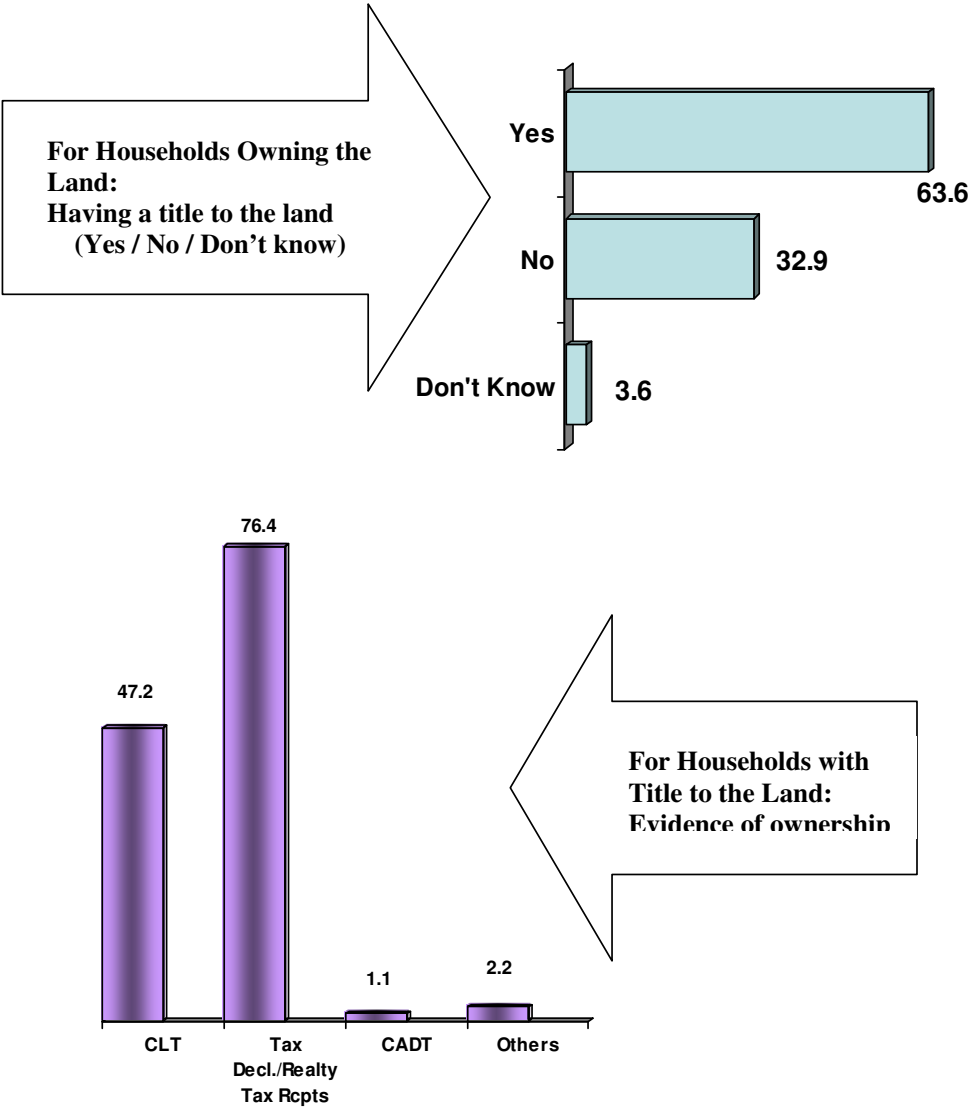
	Bago	Bugkalot / Ilongot	Kankanaey
<b>For households owning the land:</b>			
<b>Have Title or Evidence of Ownership</b>			
Yes	63.6	52.6	53.2
No	32.9	45.3	43.5
Don't Know	3.6	2.1	3.2
No Response	0.0	0.0	0.0
<b>For Households Owning Land and With Title / Evidence:</b>			
<b>Type of Title or Evidence of Ownership</b>			
Certificate of Land Title (CLT)	47.2	16.8	25.3
Certificate of Land Ownership Agreement (CLOA)	1.1	52.0	15.2
Tax Declaration/Real Property Tax Receipts	76.4	20.2	44.4
Native Title	0.0	6.9	1.0
Torrens Title	1.1	3.5	1.0
Certificate of Ancestral Domain Title (CADT)	1.1	9.2	3.0
Certificate of Ancestral Land Title (CALT)	0.0	4.0	1.0
Others	0.0	7.5	5.1
Don't Know	0.0	1.7	13.1
No Response	0.0	0.6	1.0
<b>Who Provided Assistance in Acquiring the Land *</b>			
Government	93.3	85.5	54.5
NGO/People's Organization	1.1	5.2	3.0
Tribal Leader/Elder	5.6	27.2	13.1
Others	2.2	1.2	32.3
<b>Benefits Enjoyed Because of the Title *</b>			
Economic Security	66.3	56.6	51.5
Security of Tenure	55.1	65.9	48.5
Social Status	13.5	14.5	9.1
Others	2.2	1.2	11.1

\*Total may exceed one hundred percent due to multiple responses

Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 53

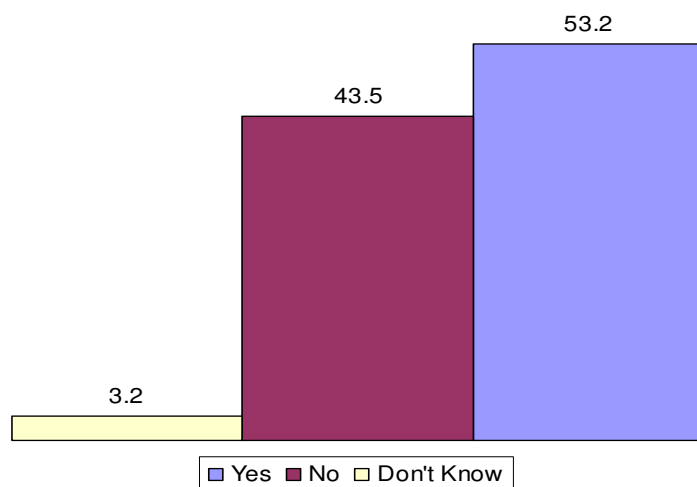
Between 52.6% and 63.6% across the tribes possess titles as evidence of ownership while 32.9 % to 45.3 % did not have titles. For the Bagos, 76.4 % and the Kankana-eyes, 53.2 %, have tax declarations and real property tax receipts as evidence of their ownership; and about 52% of the Bagos possess Certificates of Land Titles (CLT) and 25.3% for the Kankanaeys. In the case of the Bugkalots, their ownerships were largely evidenced by the CLOAs. (Figure 14A, 14B & 14C)

Figure 14A. Evidence of Ownership Among BAGO TRIBE

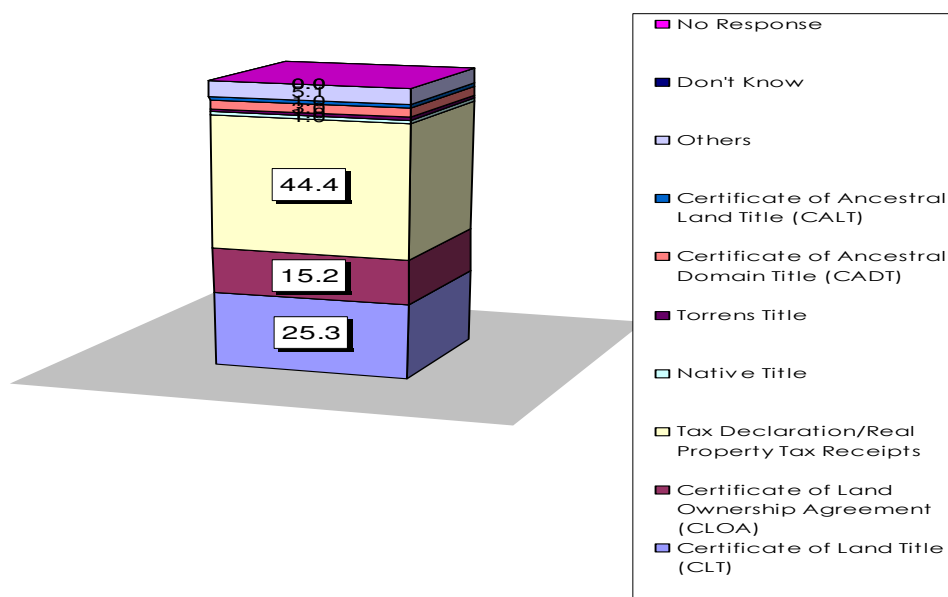


Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 53

**Figure 14B. Evidence of Ownership Among KANKANA-EY TRIBE**

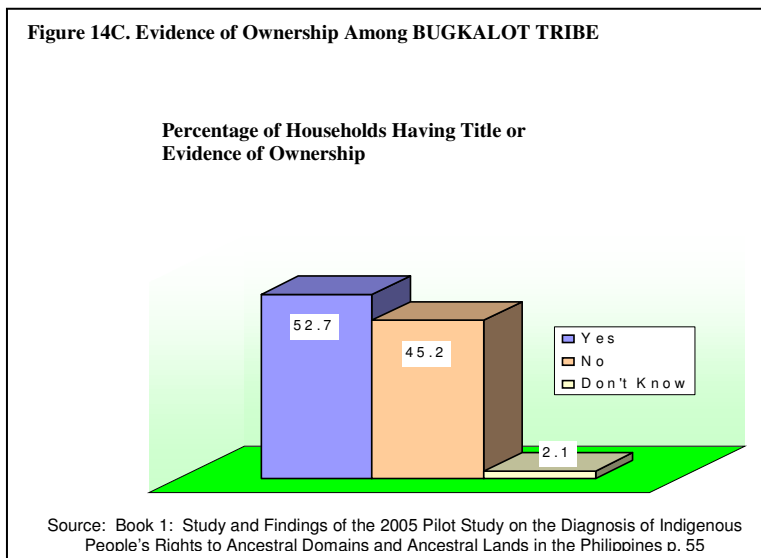


**Type of Title or Evidence of Ownership  
(Percentage of Households)**



Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 54

**Figure 14C. Evidence of Ownership Among BUGKALOT TRIBE**



These tribes cited government's assistance in acquiring land ownership. Between 54.6% and 93.3% acknowledged the help of the government. As observed, the assistance of government in this respect is heavily felt in the Bago tribe at 93.3%, followed by Bugkalot/Ilongot at 85.5%. The Kankanaey is tailing behind at 54.5%. The role of the tribal leaders/elders were a little significant in

the Bugkalot/Ilongot Tribe at 27.2%. More interesting though is the assistance of so called "others", which the Kankanaey identified to have assisted them significantly registered at 32.3%.

From the results of the pilot study, some related benefits were identified by the tribes that are associated with the land titles. Economic security was cited by the Bago (66.3%); Bugkalot/Ilongot (56.6%); and Kankanaey (54.5%). Security of Tenure was also singled out as a form of benefit by the Bago (56.1%; Bugkalot (65.9%); and Kankanaey (48.5%). Enhancement of social status was also mentioned as a specific benefit across tribes, which in small percentages.

#### *Actions taken to obtain Land Ownership*

The process of delineating a specific perimeter may be initiated by the NCIP with the consent of the ICC/IP concerned, or through a Petition for Delineation filed with the NCIP, by a majority of the members of the ICCs/IPs. The official delineation of ancestral domain boundaries including census of all community members therein, shall be immediately undertaken by the Ancestral Domains Office of the NCIP upon filing of the application by the ICCs/IPs concerned. Delineation will be done in coordination with the community concerned and shall at all times include genuine involvement and participation by the members of the communities concerned. The allocation of lands within any ancestral domain to individual or indigenous corporate (family or clan) claimants shall be left to the ICCs/IPs concerned to decide in accordance with customs and traditions. (Section 53a, IPRA). Individual and indigenous corporate claimants of ancestral lands which are not within ancestral domains may have their claims officially established by filing applications for the identification and delineation of their claims with the NCIP. An individual or recognized head of a family or clan may file such application in his behalf or in behalf of his family or clan, respectively (Section 53b, IPRA).

Results of the pilot study show that landowners without titles desire to obtain titles representing 98.6% of the Bugkalots, 85.1% of the Kankanaey and 77.1% of the Bagos. It is significant to note that of those who have no titles and proofs of ownership, only 24%-32% has taken action to obtain titles while more than 50% has not taken any step or action to obtain land titles. In addition those who do not own lands have no knowledge as to who own the lands involved. They include 100% of those who do not own lands among the Kankanaey, 83.3% among the Bugkalot; and 25% among the Bago (Table G).

**Table G**

**LAND OWNERSHIP, AND INTENTION AND ACTION TO OBTAIN TITLE**  
Percentage Distribution of Households  
2005

	Bago	Bugkalot / Ilongot	Kankanaey
<b>For Households Owning Land and With No Title / Evidence:</b>			
<b>Want to obtain title to land</b>			
Yes	77.1	98.6	
No	16.7	1.4	
Don't Know	4.2	0.0	
No Response	0.0	0.0	
Missing Data	2.1	0.0	
<b>For Households Owning Land, With No Title / Evidence and Wanting to Obtain Title:</b>			
<b>Family has taken action to obtain title</b>			
Yes	24.3	29.5	
No	64.9	66.4	
Don't Know	2.7	3.4	
No Response	8.1	0.7	
Missing Data	0.0	0.0	
<b>For Households Not Owning Land</b>			
<b>Who owns the land</b>			
Government	0.0	0.0	
Private Owner/s	0.0	0.0	
Others	0.0	0.0	
Don't Know	25.0	83.3	
No Response	75.0	16.7	
Missing Data	0.0	0.0	

Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 56

These results are adequately supported by feedback generated from the FDGs. Across the three tribes, there was general agreement on the positive effects of the IPRA especially in relation to indigenous people's rights to ancestral domains and ancestral lands. For those who have successfully obtained titles they have become more confident to make improvements on their lands and have likewise, become more conscientious in paying real property tax, which most of these tribes regard as solid proof of their ownership over the

lands. These tribes have also, expressed their strong sense of ownership and security by obtaining land titles for the ancestral lands that they inherited from their ancestors. The observance of the IPRA law has, in this respect, initiated a sustainable mainstreaming of cultural integrity of the indigenous peoples into the national legal system and development path.

### **C. Awareness and perception of the tribes on their duties and obligations over the use of ancestral domains and ancestral lands**

#### *Utilization of Ancestral Lands*

The duties and obligations of the tribes over ancestral domains and ancestral lands originate from their accountability to exercise responsibly their right to develop, control and use lands and territories traditionally occupied, owned, or used; to manage and conserve natural resources within the territories and uphold the responsibilities for future

generations. to benefit and share the profits from allocation and utilization of the natural resources found therein; the right to negotiate the terms and conditions for the exploration of natural resources in the areas for the purpose of ensuring ecological, environmental protection and the conservation measures, pursuant to national and customary laws; the right to an informed and intelligent participation in the formulation and implementation of any project, government or private, that will affect or impact upon the ancestral domains and to receive just and fair compensation for any damages which they sustain as a result of the project; and the right to effective measures by the government to prevent any interfere with, alienation and encroachment upon these rights (Section 56, IPRA).

The pilot study reveals that majority of the tribal households were cultivating their land either by themselves or with help from their family members, There are idle lands among the Bago (4.7%) and Kankana-ey (1.2%) but among the Bugkalot tribe, no idle land was mentioned. There are also a few in the three tribes who rent out their lands. However, the study did not specify the “others” on the utilization of land, which is notable among the Bago (14%), Bugkalot (.3%) and Kankanaey (1.2%). A high percentage of households owning land were cultivating their own land and most of them had introduced agricultural improvements in their land. To be specific, the cultivation of land by self or family members are predominant among the Bago (70.7%), Bugkalot/Ilongot (92.6%) and Kankanaey (93.6%)[(Table H.1].

**Table H1  
UTILIZATION OF LAND**

Percentage Distribution of Households 2005

	Bago	Bugkalot/ Ilongot	Kankanaey
<b>All Households</b>			
Cultivation by Self or Family Members	70.7	92.6	93.6
Renting/Leasing Out to Others	2.0	2.6	1.6
Left Idle/Not Being Utilized	4.7	0.0	1.2
Others	14.0	0.3	1.2
Not Applicable	5.3	2.5	2.0
No Response	0.7	1.4	0.4
Missing Data	2.7	0.3	0.0

Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 60

### *Improvements on Ancestral Lands*

Majority of the tribes has introduced improvements invariably in the ancestral lands.(Table H.2) Agricultural improvements ranked highest among the Bago (78%), Bugkalot (91.1%) and Kankanaey (81.2%). Although minimal, other advance improvements have been introduced, which indicate progress among the tribes. Infrastructure improvements were introduced by the Bago (2%), Bugkalot (6%) and Kankanaey (5.6%). To a limited extent, commercial improvements were undertaken among the Bago (6.7%), Bugkalot (2.6%) and Kankanaey (3.6%). Again, even at negligible level, it is encouraging to note that consciousness in the preservation and conservation of natural resources have been introduced through reforestration of denuded areas among the Bago.

**Table H.2**  
**IMPROVEMENTS INTRODUCED ON ANCESTRAL LANDS**

Percentage Distribution of Households

2005

<u>All Households</u>	<b>Bago</b>	<b>Bugkalot / Ilongot</b>	<b>Kankanae y</b>
Improvements introduced			
Agricultural	78.0	91.1	81.2
Commercial	6.7	2.6	3.6
Infrastructure	2.0	6.0	5.6
Initiate/Undertake Reforestation of Denuded Area	4.7	6.6	5.6
Others	0.7	0.9	13.6
No improvements introduced	8.7	2.3	11.6

Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 60

(4.7%), Bugkalot (6.6%) and Kankanaey (5.6%). It is unfortunate that the pilot study did not specify the "other improvements" introduced especially among the Kankanaey (13.6%), Bago (0.7%) and Bugkalot (0.9). These other improvements can be small initiatives that may also show progress on the indigenous practices. Also, it is a concern to examine why a small segment of the tribes have not introduced improvements on their ancestral lands involving Bago (8.7%), Bugkalot (2.3%) and Kankanaey (11.6%). The viewpoints of both women and youth regarding improvements of ancestral lands figured significantly especially in the aspect of environmental protection through planting trees to avoid erosion, building dikes to protect lands from floods, to support the programs of government and local officials. [Figure 15.A, 15B, 15C].

#### **D. Awareness and perception on violation of rights to ancestral domain and ancestral lands**

In cognizance of the rights of Indigenous People's rights over ancestral domains and ancestral lands, the IPRA prescribes the *Free and Prior Informed Consent* referring to the consensus of all members of the ICCs/IPs to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community (Section 2, IPRA).



**Table I.1**  
**VIOLATION OF RIGHTS TO ANCESTRAL**  
**DOMAIN AND LAND**  
**Percentage Distribution of Households**  
**2005**

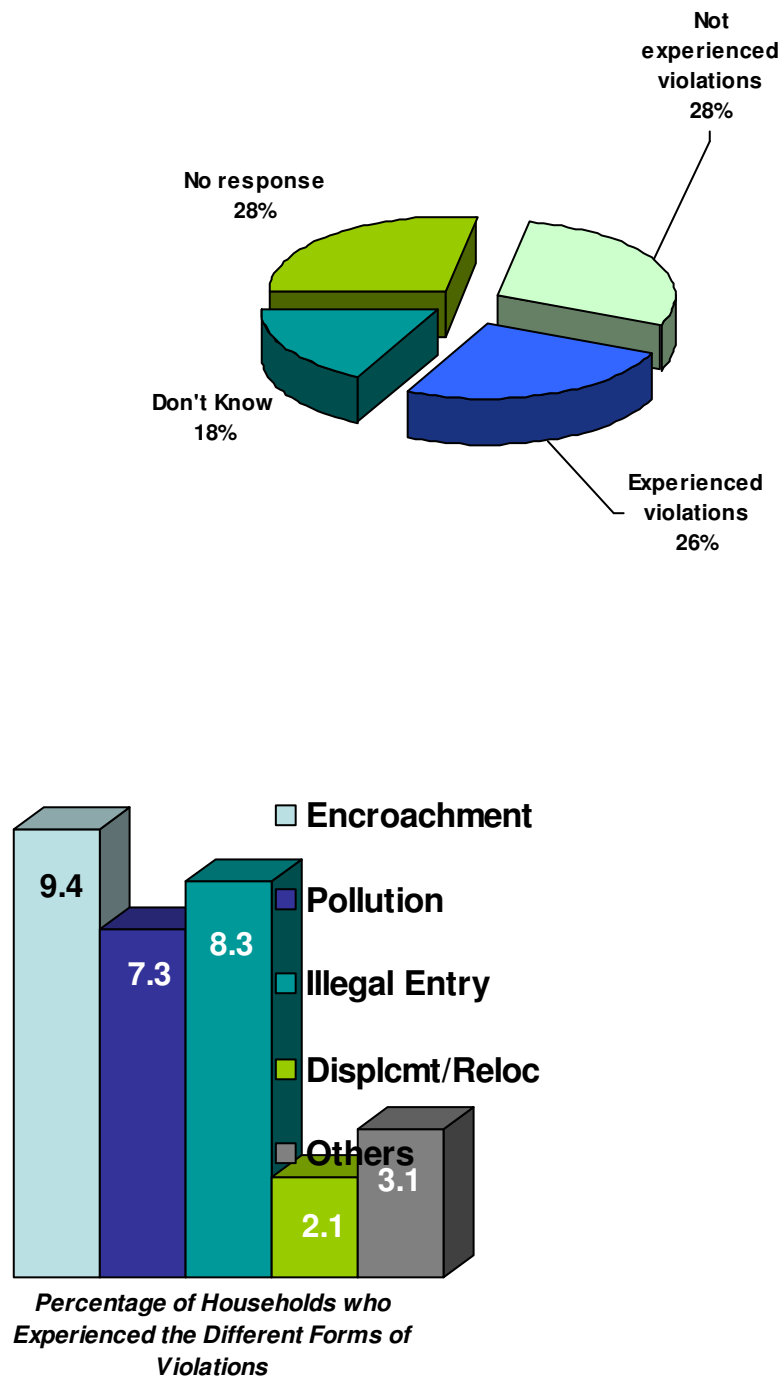
Type of Violation	Combined Average	Bago	Bugkalot	Kankanaey
<b>All Households</b>				
Not experienced violations	26.4	33.3	23.7	25.4
Experienced violations	53.9	38.5	62.9	51.8
Encroachment	16.8	4.7	27.3	10.9
Pollution	10.2	3.6	15.7	7.3
Illegal Entry	22.4	4.2	40.9	9.9
Displacement/Relocation	3.9	1.0	4.5	5.0
Others	3.3	1.6	1.3	6.9
Don't Know	13.7	10.9	11.1	18.8
No response	6.1	17.2	2.3	4.0

Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 60.

#### *Types of violations*

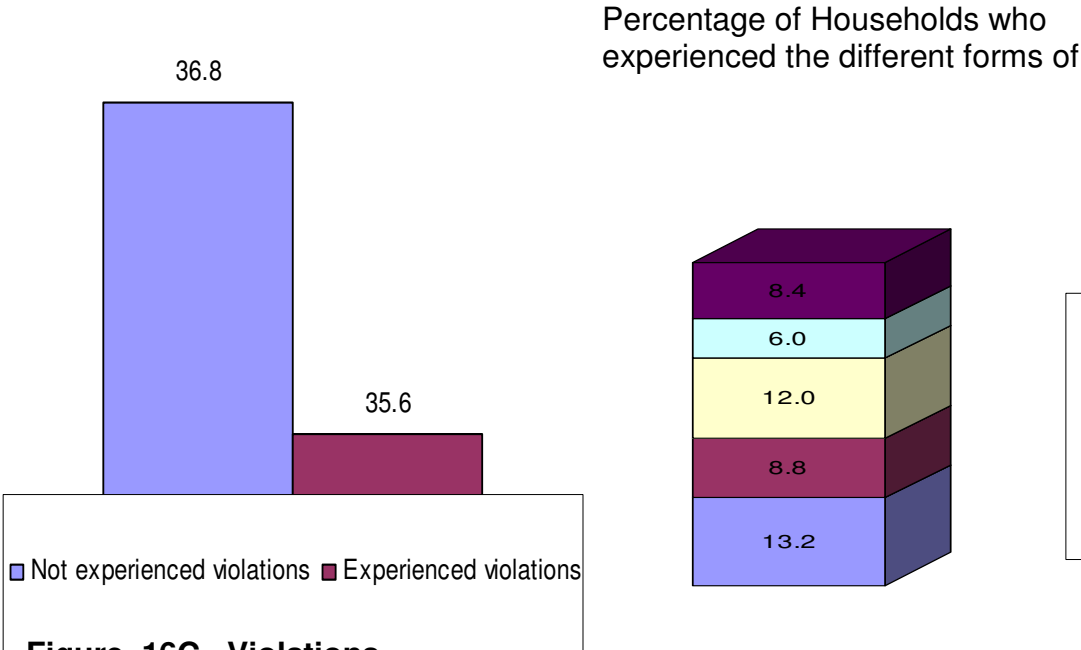
Overall, more than half (53.9%) of the tribes experienced violations: Bago 38.5%; Bugkalot (62.9%) and Kankanaey (51.9%). The dominant types of violations are illegal entry and encroachment. On illegal entry, the combined average among the tribes is 22.4%. The most affected is the Bugkalot tribe at 40%, while the Bago (4.2%) and Kankanaey (9.9%) are the least affected. On encroachment, the combined average among the tribes is 16.8% with the composite tribes invariably affected such as: Bago (4.7%); Bugkalot (27.3%); and Kankanaey (10.9%). Pollution is a significant violation among the Bugkalot (15.7%) and minimally affecting the Bago (3.6%) and Kankanaey (7.3%). [Table I.1, Figure 16A, 16B & 16C)

Figure16A Violations experienced by BAGO Tribe



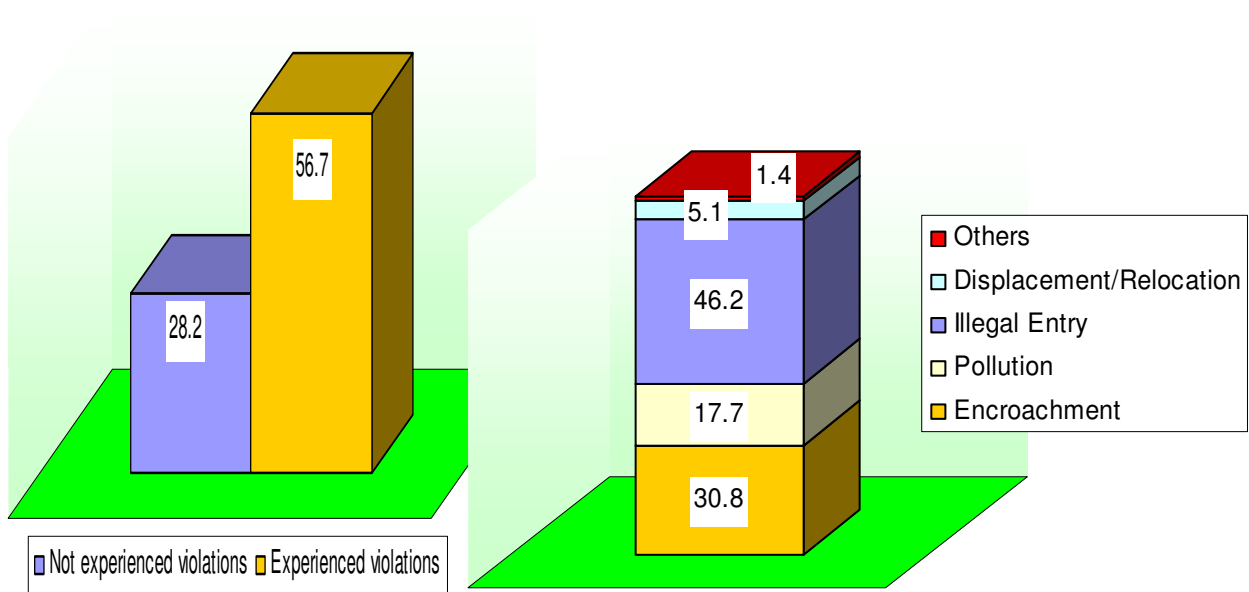
Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 49.

**Figure 16B. Violations experienced by KANKANA-EY**



**Figure 16C. Violations experienced by BUGKALOT TRIBE**

Percentage of Households who experienced the different forms of



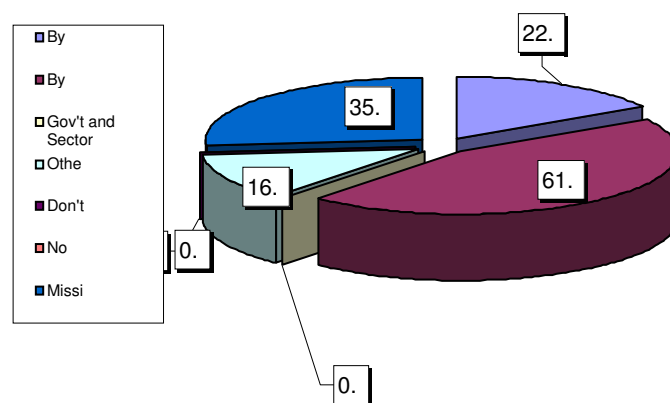
Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People’s Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 50.

### *Reported Cases of lands taken away*

Indigenous Peoples have the right to stay in the territory and not be removed therefrom and not be relocated without their free and prior informed consent, nor through any means other than eminent domain. Where relocation is considered necessary as an exceptional measure, such relocation shall take place only with the free and prior informed consent of the ICCs/IPs concerned and whenever possible, they shall be guaranteed the right to return to their ancestral domains, as soon as the grounds for relocation cease to exist. When such return is not possible, as determined by agreement or through appropriate procedures, ICCs/IPs shall be provided in all possible cases with lands of quality and legal status at least equal to that of the land previously occupied by them, suitable to provide for their present needs and future development. Persons thus relocated shall likewise be fully compensated for any resulting loss or injury (Section 7c, IPRA).

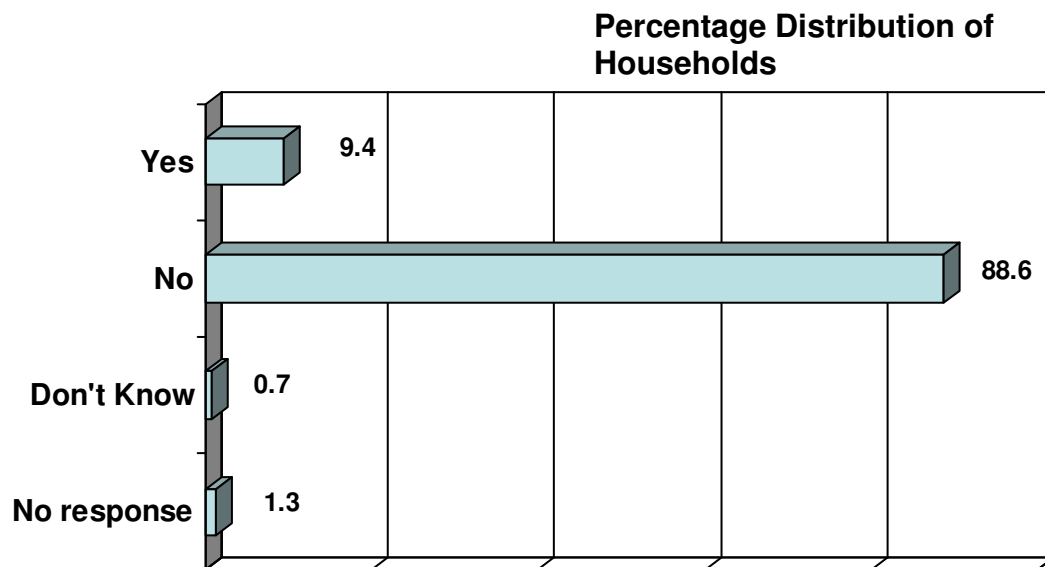
On reported cases of land taken away the Bugkalot (18.2%) is the most affected, Bago (9.4% and Kankanaey 97.3%). While the combined average (3.9%) of the tribes who were displaced and relocated is minimal, this remains to be a concern among the Kankanaey (5%), Bugkalot (4.5%) and Bago (1%). On the average more than half of these reported cases of lands taken away were by fraud and deceit. In the case of the Kankanaey, 55.6% alleged that their lands were taken away by private individual and 5.6% by private organizations Among the Bago, 88.6% claimed that their lands were taken away by private individuals (78%), private organizations (11%) and Council of Elders (11%). The Bugkalot (56.5%) also alleged that their lands were taken away by private individuals, 12.9% by government and 21% by unspecified others.(Figure 17.A, 17B & 17C)

Figure 17A Cases of Land taken Away reported by KANKANA-EY TRIBE

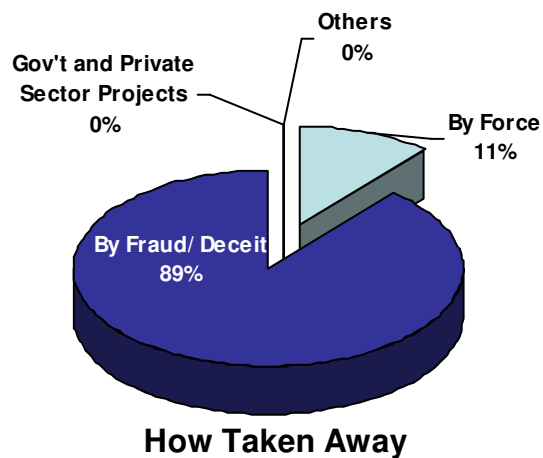


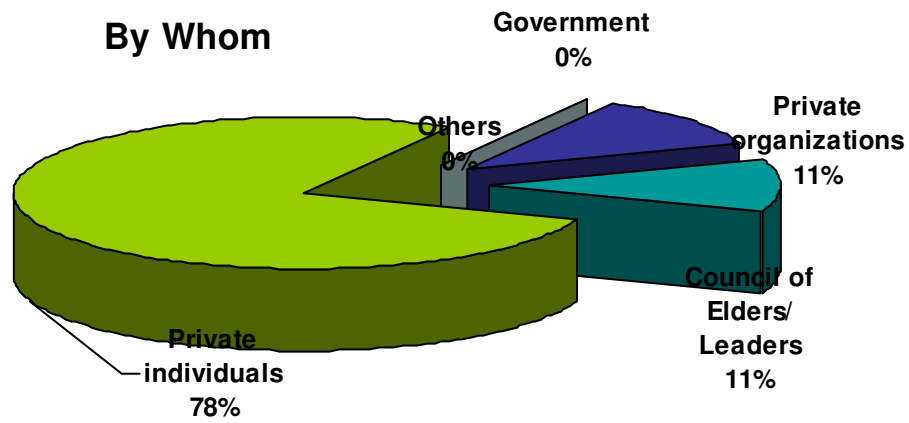
Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 60

**Figure 17B Cases of Land taken Away reported by BAGO TRIBE**



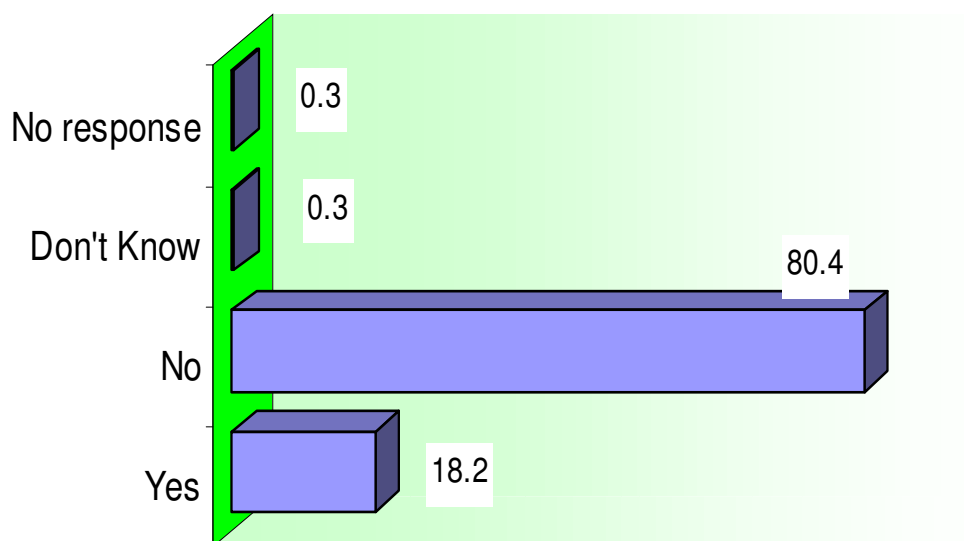
Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 60-61



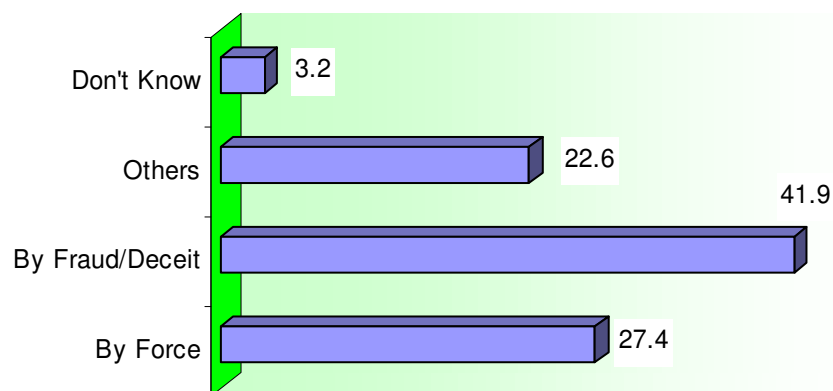


Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 60

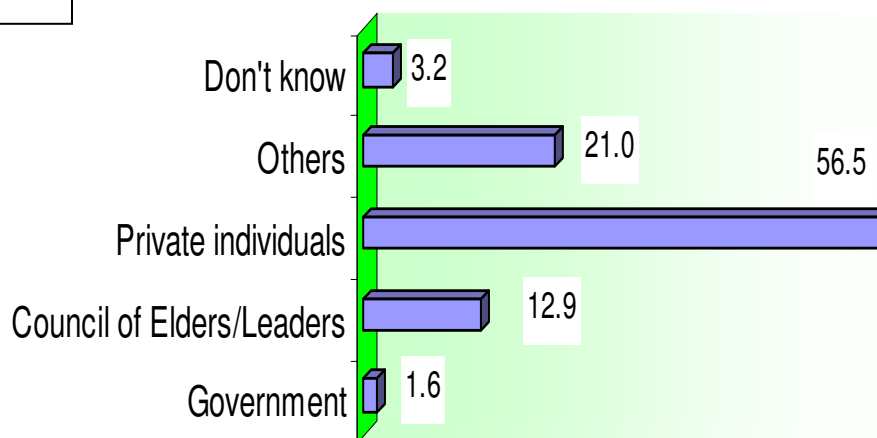
**Figure 17C Cases Of Land Being Taken Away as reported by Bugkalot Tribe**



### HOW TAKEN AWAY



### BY WHOM



Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 60-62

*Reported cases of relocation/resettlement*

As provided under the IPRA, when case of displacement occurs as a result of natural catastrophes, the State shall endeavor to resettle the displaced ICCs/IPs in suitable areas where they can have temporary life support system: Provided, That the displaced ICCs/IPs shall have the right to return to their abandoned lands until such time that the normalcy and safety of such lands shall be determined: Provided, further, That should their ancestral domain cease to exist and normalcy and safety of the previous settlements are not possible, displaced ICCs/IPs shall enjoy security of tenure over lands to which they have been resettled: Provided, furthermore, That basic services and livelihood shall be provided to them to ensure that their needs are adequately addressed (Section 7d, IPRA).

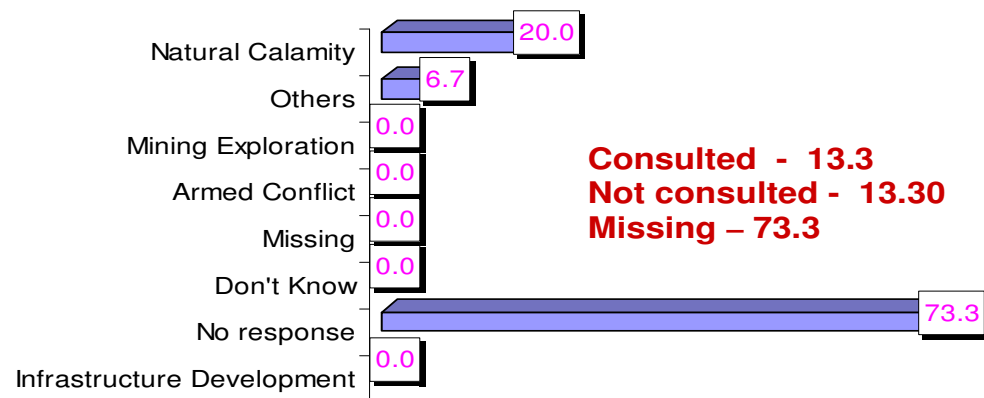
<b>Table K</b>			
<b>RELOCATION/RESETTLEMENT EXPERIENCED</b>			
Percentage Distribution of Households			
2005			
	Bago	Bugkalot	Kankanaey
<b>For Households Which Experienced Relocation / Resttlement</b>	100.0	100.0	100.0
<b>Reason for Relocation/Resettlement</b>			
Natural Calamity	50.0	50.0	20.0
Mining Exploration	0.0	16.7	0.0
Infrastructure Development	0.0	0.0	0.0
Armed Conflict	50.0	0.0	0.0
Others	0.0	16.7	6.7
Don't Know	0.0	5.6	0.0
No response	0.0	5.6	0.0
Missing	0.0	5.6	73.3
			100.0
<b>Whether consulted or not</b>			
Consulted	50.0	55.6	13.3
Not Consulted	50.0	22.2	13.3
Don't Know	0.0	0.0	0.0
No response	0.0	0.0	0.0
Missing	0.0	22.2	73.3
<b>Whether community is satisfied or</b>			

As shown in Table K, relocations occurred largely due to natural calamities among the Bagos (50%), Bugkalots (50%) and Kankanaey (20%). The Bugkalots (16.7%) were also affected due to mining exploration. The Bagos (50%) by armed conflict. “Missing” as a reason for relocation/resettlement was also cited by the Kankanaeys (73.3%). Another concern that is worth examining is about 21% of the Bugkalot who identified “unspecified others” as the reason to include the “do not know and no response” categories. The lack of knowledge of the tribes on the reasons for their relocation or

resettlement is bothering considering the law provisions on the matter. Attached to the provision that relocation shall take place only with the free and prior informed consent of the ICCs/IPs concerned, 50% of the Bagos alleged that they were not consulted, Bagos (22.2% and Kankanaeys(13.3%). Once more, the Kankanaeys (73.3%) reported “missing” as the prevalent reason for their relocation/resettlement. , which is a major concern. On whether or not the tribes were consulted, 50% of the Bagos contends that they were not consulted, Bugkalots (22.2%) and Kankanaeys (13%), although half of the Bagos and Bugkalots affirmed that they were consulted. (Figure 18A, 18B & 18C)

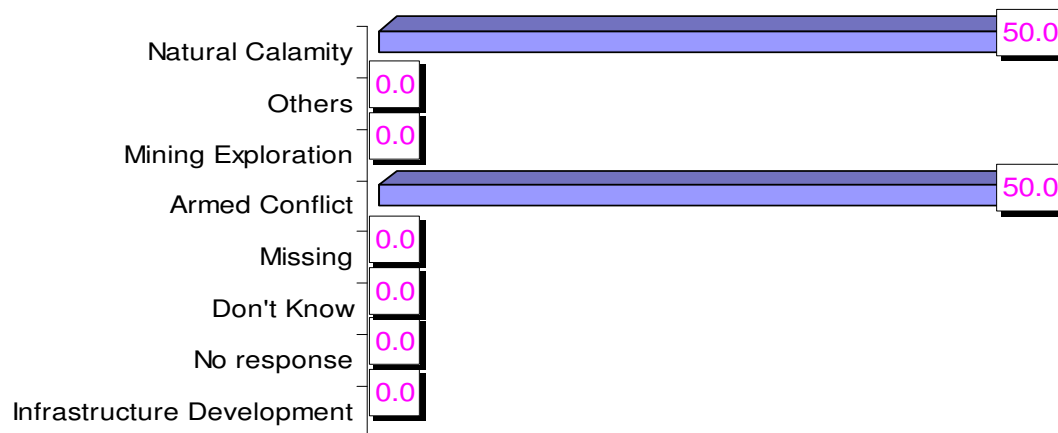


**Figure 18A REASONS FOR RELOCATION/RESETTLEMENT Cited by Kankana-ey Tribe**  
**PERCENTAGE DISTRIBUTION OF HOUSEHOLDS**



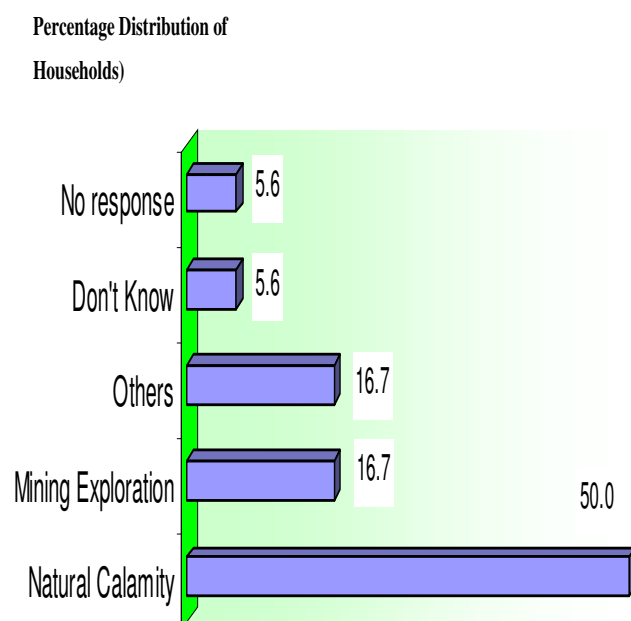
**Figure 18B REASONS FOR RELOCATION/RESETTLEMENT Cited by BAGO Tribe**

**PERCENTAGE DISTRIBUTION OF HOUSEHOLDS**



Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines.

**Figure 18B REASONS FOR RELOCATION/RESETTLEMENT  
Cited by BUGKALOT Tribe  
REASONS FOR RELOCATION/RESETTLEMENT**



Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines..

As earlier mentioned, the law provides that persons thus relocated shall likewise be fully compensated for any resulting loss or injury. Among the households who were relocated, all the Bago (100.0 percent) households claimed that they were not compensated, the Bugkalots, 72.2 percent while only 20.0 percent of the Kankanaeys reported the same.

#### *Other Violations*

The FGD among the three tribes validated the above-cited findings as a reality among the tribes. The FGD findings put more flesh to the nature of violations experienced by tribe members. Some of the exchanges during the FDGs provided additional information on violations experienced which could not

be obtained in detail from the survey. Some of the more specific concerns raised during the FGDs include the following:

- For the Bugkalots : Some of them being used for illegal logging; existence of illegal migrants; existence of land grabbing, squatting and displacement issues (as expressed by tribal women); some feeling dismayed that even if they know their rights but no where to seek help especially against migrants who grabbed their lands, migrants blocked farm irrigation; grabbing of pasture land by the mayor (as mentioned by Tribal youth).
- For the Bagos: They expressed that they were not aware of any violation, which was supported by both the tribal women and youth. Exceptional claims were done by one woman who said that the land that she inherited is being titled by another party, even if her family is paying real property tax. This, more or less, supports the survey finding on violation among this tribe, which was only 4.2%.
- For the Kankanaeys : They said most violations are related to resource misuse such as illegal mining, swindling of IPs by outsiders to include theft and robbery. The tribal youth expressed their lack of knowledge about their rights and thus, are unaware whether they have certain rights being violated. On the part of the tribal women, they mentioned boundary disputes and illegal water tapping and poor

drainage, which causes flooding in some properties. Also, the tribal leaders mentioned violations against their right to be consulted especially their experience in Barnagay Palina, where alleged mining operates without consent.

#### **E. Determination of existing mechanisms used by respondent tribes for grievance and redress**

Under the IPRA, the right of the Indigenous peoples to resolve land conflicts in accordance with customary laws of the area where the land is located, and only in default thereof shall the complaints be submitted to amicable settlement and to the Courts of Justice whenever necessary (Section 7h, IPRA).

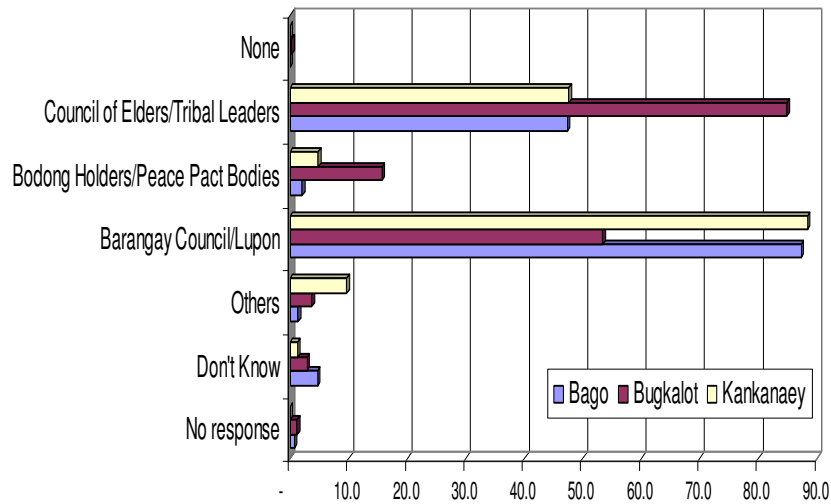
#### *Institutions/Organizations That Resolved Land Issues*

The pilot study reveals varying levels of consultation across the three tribes. Most consulted bodies are the Barangay Councils/Lupon and their Council of Elders and Tribal leaders. To some extent the Peace pact Bodies were also consulted. Consultation with the Barangay Council/Lupon ranked best with the Bago (87.3% and Kankanaey (88.4%) High preference was given to Council of Elders/Tribal Leaders among the Bugkalots (84.9%) as compared to the Bagos and Kankanaeys, which both yielded to a little over 47% only. Relatively significant 15% of the Bugkalot tapped the Bodong/holdersPeace pact Bodies (Table M.1)

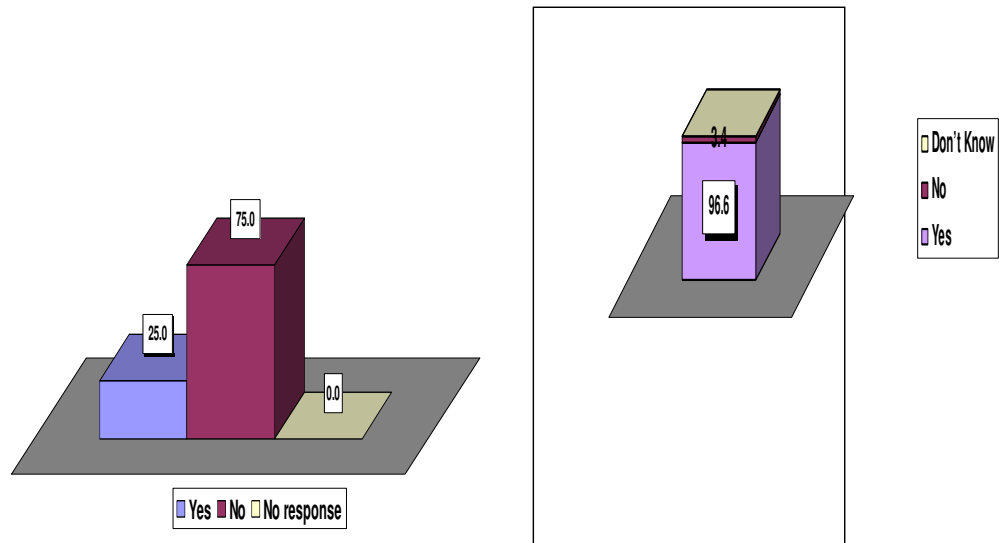
<b>Table M.1</b> <b>Percentage Distribution of Households</b> <b>2005</b>			
	Bago	Bugkalot	Kankanaey
<b>All Households</b>			
<b>Type of Organization / Institution Present in Community 1</b>			
None	0.0	0.3	0.0
Council of Elders/Tribal Leaders	47.3	84.9	47.6
Bodong Holders/Peace Pact Bodies	2.0	15.7	4.8
Barangay Council/Lupon	87.3	53.4	88.4
Others	1.3	3.7	9.6
Don't Know	4.7	2.9	1.2
No response	0.7	1.1	0.0
<b>All Households</b>	100.0	100.0	100.0
<b>Gone to Any of Above Organizations / Institutions</b>			
Yes	20.7	52.9	40.8
No	68.0	34.6	40.8
No response	0.0	0.6	0.4
Missing	11.3	12.0	18.0
<b>For Households Who have Gone to Any of Above Organizations / Institutions</b>	100.0	100.0	100.0
<b>Participated in Discussions / decisionmaking process</b>			
Yes	93.5	89.2	60.8
No	3.2	9.7	37.3
Don't Know	0.0	1.1	1.0
No response	0.0	0.0	0.0
Missing	3.2	0.0	1.0
1/ Total may exceed one hundred percent due to multiple responses			
Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines.			

Of the 52% of the Bugkalot who expressed having physically gone to the bodies they consulted most for assistance, 89% of them have actually participated in discussions and decision making process. While the Bago (20.7%) and Kankanaey (40.8%) had lesser contact with the organizations and institutions they consulted, still they participated and involved in the decision making at different circumstances they got in touch with these bodies.<sup>9</sup>Figure 19A, 19B, 19C & 19D)

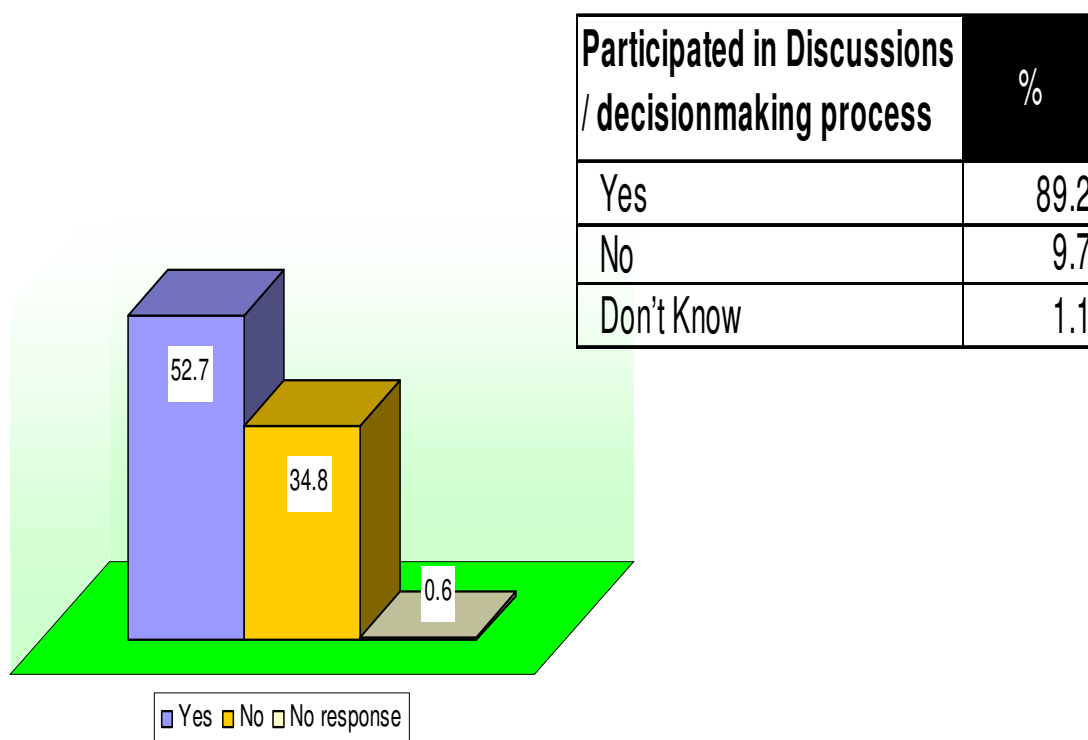
**Figure 19A ORGANIZATIONS/INSTITUTIONS WHERE LAND ISSUES AND PROBLEMS ARE DISCUSSED AND RESOLVED**



**Figure 19B Mechanisms Availd of as Reported by the BAGO Tribe**



Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines..



Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines..

### *Modes of Resolving Conflicts*

The ICCs/IPs shall have the right to use their own commonly accepted justice systems, conflict resolution institutions, peace building processes or mechanisms and other customary laws and practices within their respective communities and as may be compatible with the national legal system and with internationally recognized human rights (Section 15, IPRA)

Land issues and conflicts were resolved invariably by the three tribes through the available mechanisms from their customary laws and practices as well as those legislated mechanism under the national law like the Barangay Justice System.. The Bugkalot (70.9%) resorts more to Customary Laws than the Bago (39.3%) and Kankanaey (34%). Half of the Kankanaey (49.6%) and one third of the Bago (34.7%) prefer amicable settlement more than the Bugkalot (12%). Resolution of land conflict through referral to right government institution is relatively low: Bago (22.7); Bugkalot (12% and Kankanaey (8.8%) [Table M.2, Figure 20A, 20B, 20C & 20D)

The FGDs conducted in all the three tribes support the above findings relative to the maximization of the use of customary laws in resolving land conflict.

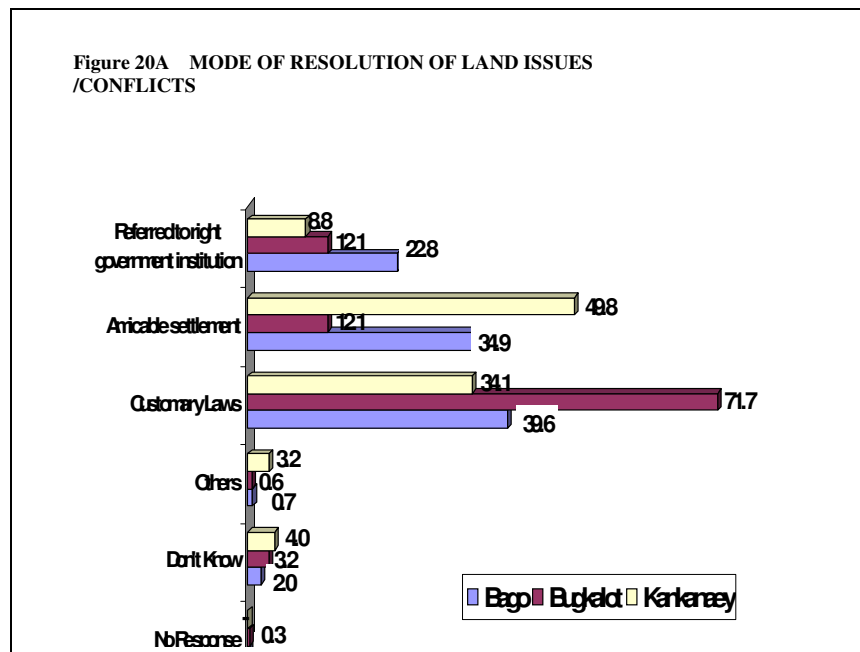
**Table M2**  
**MODE OF RESOLUTION OF LAND ISSUES/CONFLICTS**  
Percentage Distribution of Households  
2005

	Bago	Bugkalot	Kankareay
<b>All Households</b>			
Referred to right government institution	22.7	12.0	8.8
Amicable settlement	34.7	12.0	49.6
Customary Laws	39.3	70.9	34.0
Others	0.7	0.6	3.2
Don't Know	2.0	3.1	4.0
No Response	0.0	0.3	0.0
Missing Data	0.7	1.1	0.0

Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 63.

Also, as expressed in the FDGs, the three tribes, most especially the Bugkalot recognizes the IPRA and its full implementation to include the formulation of the ADSDPP. This is very much in line with the special provision of the IPRA that the ICCs/IPs shall have the right to determine and decide their own priorities for development affecting their lives, beliefs, institutions,

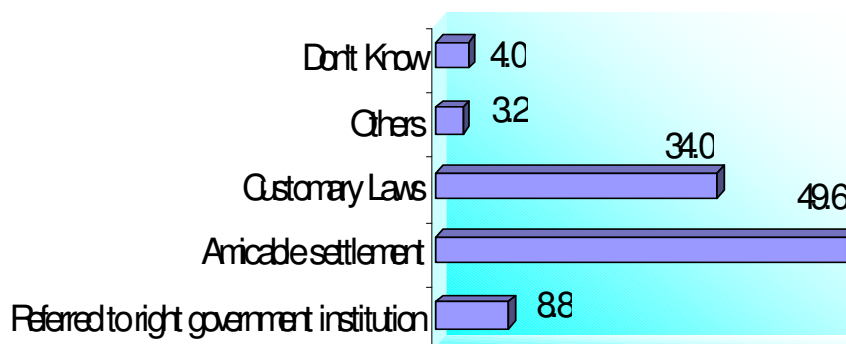
spiritual well-being, and the lands they own, occupy or use. They shall participate in the formulation, implementation and evaluation of policies, plans and programs for national, regional and local development which may directly affect them.



Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 63.

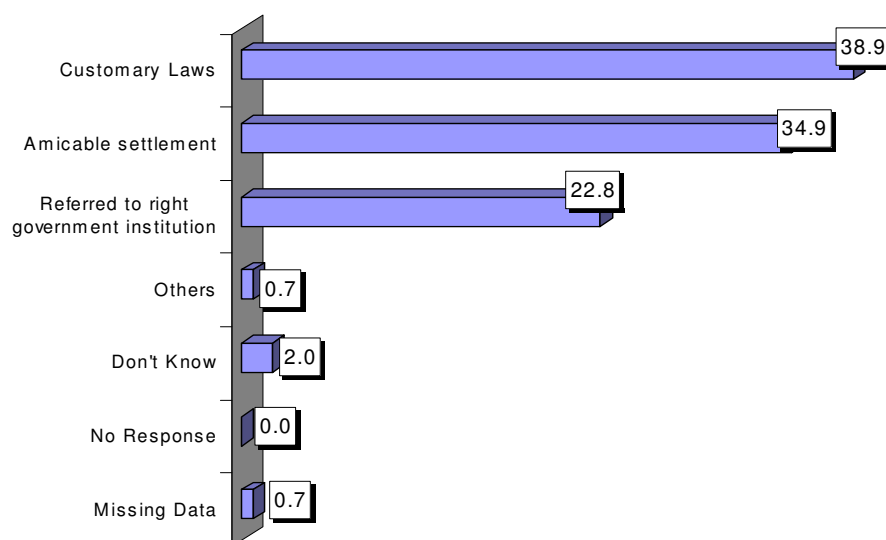
**Figure 20B MODE OF RESOLUTION OF LAND ISSUES /CONFLICTS Among the Kankana-ey Tribe**

**Percentage Distribution of Households**

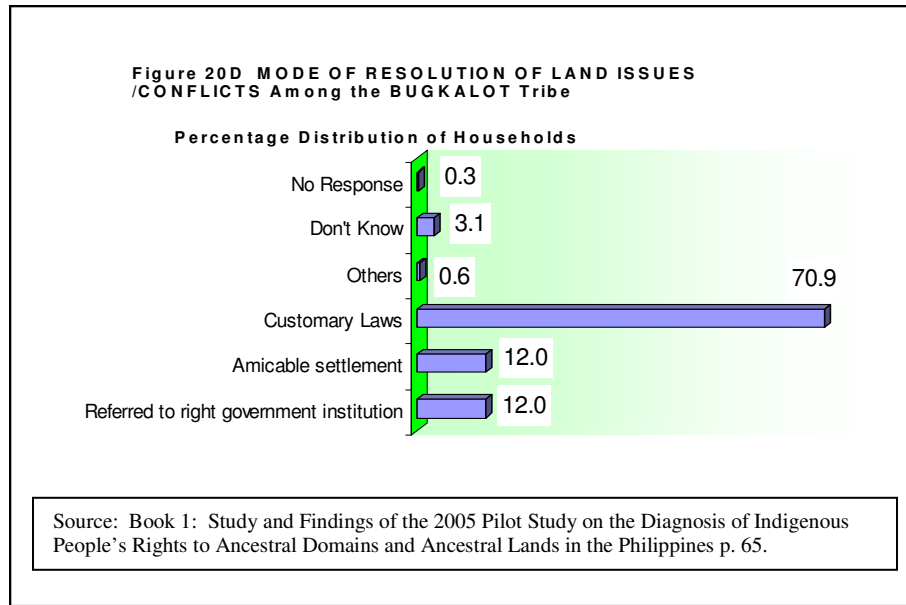


**Figure 20C MODE OF RESOLUTION OF LAND ISSUES /CONFLICTS Among the BAGO Tribe**

**Percentage Distribution of Households**



Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 64.



**F. Participation of the Tribe in the crafting and use and use of Customary laws and practices**

ICC/IPs have the right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies through procedures determined by them as well as to maintain and develop their own indigenous political structures. Consequently, the State shall ensure that the ICCs/IPs shall be given mandatory representation in policy-making bodies and other local legislative councils (Section 16, IPRA).

*Customary Laws and practices*

Across the three tribes a range of 50.6% to 74.6% affirmed that they were involved in the crafting of customary laws. Among the three tribes, consultation was generally conducted before implementation of these laws and practices.: Bago (84.7%; Bugkalot (84.7%; and Kankanaey (75.3%). There was agreement across tribes that these customary laws are helpful specifically in solving land issues. The Bugkalot agreed to this to a level as high as (91.9%, Bago (83.1) and Kankanaey (87.1%). About a range of less than 1% - 5% seems across tribes seems to have no knowledge or unaware of these customary laws and practices. [Table N]



<b>Table N</b> <b>CUSTOMARY LAWS/PRACTICES</b> Percentage Distribution of Households 2005			
	Bago	Bugkalot	Kankanaey
<b>For Households in Communities with Customary Laws and Practices</b>	100.0	100.0	100.0
<b>Involvement in the Crafting of Laws/Practices</b>			
Yes	69.5	74.6	50.6
No	22.0	19.4	47.1
Don't Know	5.1	3.6	1.2
No Response	3.4	2.0	1.2
Missing Data	0.0	0.4	0.0
<b>Consultation Done Before Implementation of Laws / Practices</b>			
Yes	84.7	84.7	75.3
No	0.0	10.5	5.9
Sometimes	8.5	3.2	3.5
Don't Know	5.1	0.8	11.8
No Response	1.7	0.4	2.4
Missing Data	0.0	0.4	1.2
<b>Considered the Laws Helpful in Solving Land Issues</b>			
Yes	83.1	91.9	87.1
No	0.0	1.6	1.2
Sometimes	10.2	3.2	4.7
Don't Know	1.7	2.4	3.5
No Response	1.7	0.4	2.4
Missing Data	3.4	0.4	1.2

Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p. 67.

### *Specific Customary Practices of the Tribes*

With the help of the FGDs some customary laws and practices were highlighted. Among the Bago tribe they have “areglo” or settlement of dispute between parties by the elders; “sintatako” or the practice of allowing members of one’s tribe who are in need to use one’s land until the owner decides to use it; and the “sapit” where the elders (“panglakayen”) serve as arbiters in settling disputes. On the part of the Kankanaey, they mentioned the practice of tribal leaders settling boundary disputes, rental of lands leased settled from the proceeds of the harvest, dividing equally all inherited lands among the children

and the exercise of right of first refusal if the ancestral land is to be sold, before its is offered to other members of the clan. Most of these practices are also observed by the Bugkalot specifically the sharing in the distribution of properties among the siblings

Despite the predominance of these customary laws and practices, the FDG s supported the results of the survey that in all the three tribes, there is also relative reliance on the legal system established under national legislation, like the Lupong Tagapamayapa, which is a barangay mechanism under the local government code. This is an indication that Indigenous Peoples use both the national law as sup[plemental] to the customary laws in resolving conflicts, availing remedies and fulfilling the rights to ancestral domains and ancestral lands.

## **G. Measures to protect Indigenous People’s Rights**

### *Awareness of legislative measures Protecting Rights to Ancestral Domains and Ancestral Lands*

All of the tribes in general were aware of the laws covering their land rights: Philippine Constitution, Indigenous Peoples’ Rights Act (IPRA) and the Comprehensive Agrarian Reform. Of the three laws, most of the Bago Tribe members, 48.3 % were aware of the Philippine Constitution, a large number of Bugkalots, 67% and 44.4 % of the Kankanaeys knew about the IPRA. (Table O)

**Table O**  
**AWARENESS OF LAWS PROVIDING PROTECTION TO LAND**  
Percentage of Households Aware of  
Laws  
2005

	Bago	Bugkalot
<b>All Households</b>		
Philippine Constitution	48.3	30.5
Indigenous Peoples' Rights Act (IPRA)	42.3	67.0
Comprehensive Agrarian Reform Law	41.6	34.8

1/ Total may exceed one hundred percent due to multiple responses

Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p.71.

*Program measures undertaken by the Government Agencies within the ancestral domains*

From this ranking, some observations may be drawn. There is, more or less, consistency in the ranking of the DSWD, DOH, DepED and NCIP where the tribes awareness of their existence almost matches the level to which their services are availed by the tribes.

In the case of LGU, its ranking as to awareness in the middle part but the level to which its services is availed by the tribe is at the upper bracket. In contrast with the DAR and DENR, where both ranked in the upper bracket in terms of the tribe's awareness of their existence but ranked very much lower in terms of the level to which the tribes availed of their services.

Of those tribes who availed of government programs and services, they ranked the agencies differently according to their satisfaction and non-satisfaction over actual provision of services as follows:

- Satisfaction Level : TESDA, DA, DAR, DSWD, DOH, NSO & LGU (in order of ranking)
- Non-Satisfaction levels : NCIP, DENR, FAO, DOH, CHR, LGU & DepED (in order of ranking)

*Non-government entities being sought for assistance on land issues*

On the non-government entities, the tribes sought assistance on land issues primarily from their political leaders, non-government organizations and other unspecified entities.. Most of the Bugkalots(935.6%) sought the Church' assistance, whereas the Bagos 93.6 %) and Kankanaeys (33.2 %) asked for help from the politicians . In the case of Kankanaeys, 44% of this tribe asked other unspecified entities. (Table Q)

**Table Q**  
**NON-GOVERNMENT ENTITIES BEING SOUGHT FOR ASSISTANCE ON LAND ISSUES**

Percentage of Households  
2005

	Bago	Bugkalot	Kankanaey
<b>All Households</b>	100.0	100.0	100.0
Non Government Organizations	26.2	15.4	10.0
Private Companies/Businesses	2.0	3.4	3.6
Churches	6.7	35.6	6.4
Political Leaders	30.4	31.1	38.2
Professional Groups	9.4	11.4	11.6
Media	2.7	5.7	1.2
Others	10.1	12.8	44.0
No response	15.4	13.4	8.4

Note: Total may exceed one hundred percent due to multiple responses

Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p.80.

**Table R.**  
NON-GOVERNMENT ENTITIES BEING SOUGHT FOR ASSISTANCE ON  
LAND ISSUES

Percentage of Households 2005

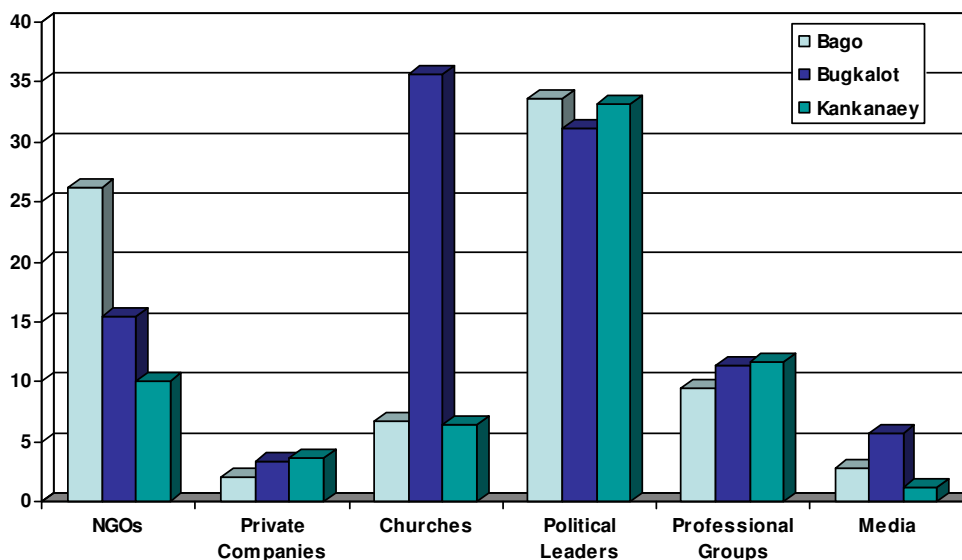
	Total	Bago	Bugkalot	Kankanaey
All Households	100.0	100.0	100.0	100.0
Non-Government Organizations	15.7	26.2	15.4	10.0
Private Companies/Businesses	3.2	2.0	3.4	3.6
Churches	20.1	6.7	35.6	6.4
Political Leaders	32.5	33.6	31.1	33.2
Professional Groups	11.1	9.4	11.4	11.6
Media	3.6	2.7	5.7	1.2
Others	22.7	10.1	12.8	44.0
No response	12.1	15.4	13.4	8.4

Note: Total may exceed one hundred percent due to multiple responses

Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p.80

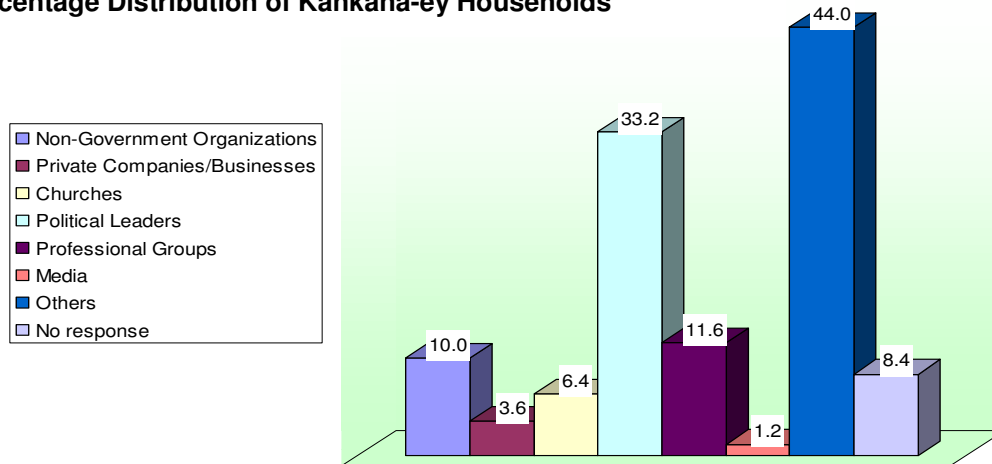
On the average (32.3%), political leaders have the highest ranking across the three tribes. In terms of assistance sought relative to land issues. However, in the case of the Bugkalots, churches ranked first. Unspecified others ranked highest among the Kankaneys. Non government organizations ranked significantly among the Bagos and Bugkalots.(Table R, Figure 23, 23A, 23B 7 23C))

**Figure 23. NON-GOVERNMENT ENTITIES BEING SOUGHT FOR ASSISTANCE ON LAND ISSUES**

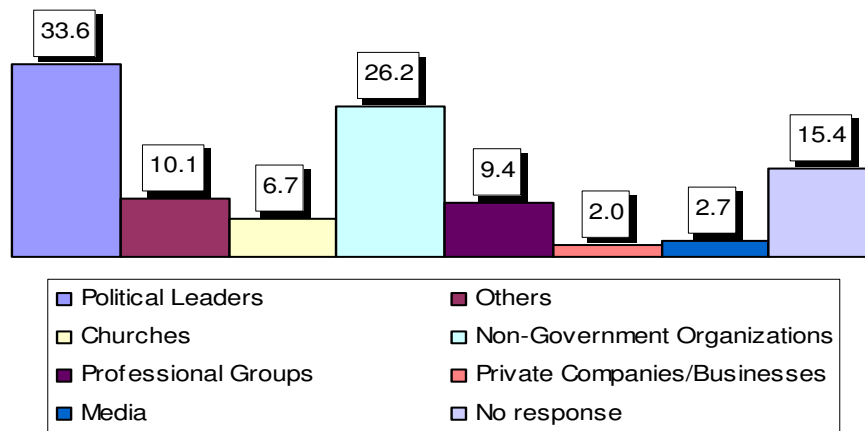


Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p.81

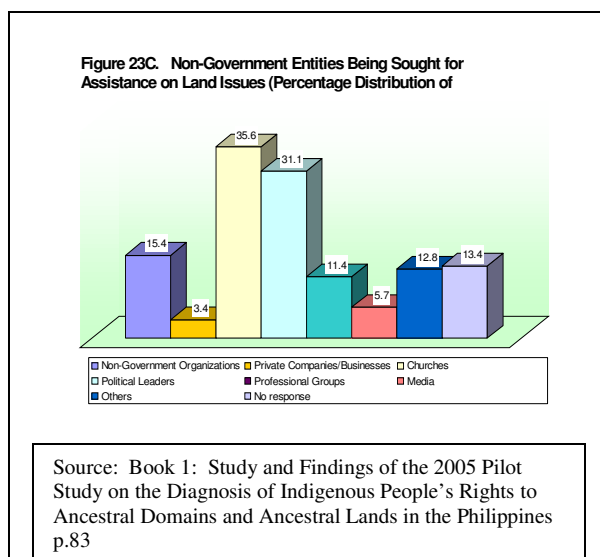
**Figure 23A . NON-GOVERNMENT ENTITIES BEING SOUGHT FOR ASSISTANCE ON LAND ISSUES**  
**Percentage Distribution of Kankana-ey Households**



**Figure 23B. NON-GOVERNMENT ENTITIES BEING SOUGHT FOR ASSISTANCE ON LAND ISSUES**  
**Percentage Distribution of Bago Households**



Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p.82



### *Specific Assistance and Contributions of Organizations and Institutions*

The FGDs conducted for the three tribes reveal more information on the specific help, assistance and contributions made by the different organizations and institutions as follows:

- The IP Community helped in accomplishing the requirements for the issuance of the CADT and the CALT. In addition, the IP

community helped improved and protected their domains and lands by planting trees; building dikes, footpaths, fences, attended information campaigns on solid waste management and reforestation, joined organizations such as cooperatives and cause-oriented groups, and contributed cash for road maintenance and other self-help project. The Kankanaey Youth added that the IP community may further help through the creation of an association/organization to protect rights to ancestral domains and ancestral lands, establishing cooperation and unity among members of the community to fight for their rights and to conduct seminars on human rights and IPRA through the assistance of the CHR and the NCIP.

- The Government was most helpful in the conduct of cadastral survey (specifically the NCIP, DENR and the local government units); reforestation projects and seminars on dangers of the kaingin system (DENR); provision of domestic water supply systems building and maintenance of roads (DPWH); conduct of information and education campaigns on the IPRA (NCIP); and the formulation of the ancestral domain management plan and clean and green program (DENR). Likewise, the Kankanaey youth identified livelihood projects such as piggery and fishery. On the part of the Bugkalot women, they said that government is helping in controlling entry of migrants, putting up schools, provision of teachers, day-care centers, health centers, putting up markers for ancestral domains, building of accessible roads for delivery of products to market, spring development, electricity, services of banks as lending institutions, special educational assistance and farm technologies. The Bugkalot women and youth mentioned NCIP for the most important assistance it gave for the completion and issuance of their CADT, which they said would be most useful in realizing the rights of the indigenous peoples.
- The NGOS and Private Sector were mentioned by all the tribes for contributing to the capacity-building efforts for strengthening rights to ancestral domains and

ancestral lands like the Philippine Business for Social Progress, Shontug Foundation, Cordillera Green Network, RP-GERMAN NGO, Federation of Igorots Foundation, CARABYO, CONVALCO, PAFID, KIDAL and others. The effort of the Roman Catholic Church in conducting IEC on the IPRA was recalled. UNDP and OECD (METAGORA) were those development assistance organizations/institutions acknowledged.

**Table S**  
**RANKING OF CURRENT PRIMARY NEEDS**  
Average Rank  
2005

	Bago	Bugkalot	Kankanaey
Adequate Food	15	18	24
Housing	32	37	35
Water System	39	44	31
Livelihood/Employment	44	31	45
Education	50	38	51
Health Facilities/Services	48	55	49
Social Insurance	64	69	64
Security/Peace & Order	71	69	64

Source: Book 1: Study and Findings of the 2005 Pilot Study on the Diagnosis of Indigenous People's Rights to Ancestral Domains and Ancestral Lands in the Philippines p.87.

## H. Top primary needs of the three tribes

Across the three tribes, the top five primary need are: adequate food, housing, water system, livelihood and education as shown in Table S. All three tribes ranked food as the top priority.

- Top 5 primary needs among the Bago tribes were: adequate food, housing, water system, livelihood/employment and education. While all identified adequate food as their first

priority, they differed in which they considered as their second to other priorities. Bago was housing, Bugkalot was livelihood/employment and Kankanaeys was water system.

- Top 5 primary needs among the Bugkalots were: adequate food, livelihood/employment, housing, education, and water systems. The bottom needs were security and social insurance. This may reflect good peace and order situation of the place.

## I. Other issues and concerns of the three tribes that were raised during the local consultations

### *General Issues and Concerns:*

1. Land issues and conflicts relative to ancestral domains and ancestral lands.
2. Discrimination of IPs in availing basic services and in opportunities to fulfill their rights;

3. Land issues that have not yet been resolved and that further deprived the IPs of enjoying their rights to their ancestral domains and lands
4. Development aggression especially due to government's liberalization of policies in mining that enable the foreign and national private mining companies to secure permits to undertake mining projects within the ancestral domains of the indigenous tribes.
5. Poor delivery of government services that result in inequitable distribution of the fruits of development;

#### *Specific issues and Concerns*

#### **1. The Bugkalot Tribe**

**Water Supply.** The Bugkalot women expressed the tribe's need to have available water supply for their agricultural crops especially corn which is grown even on high lands and mountains within their ancestral domain. As expressed by the Bugkalot women, it is ironic that the Cagayan River which provides water supply for the CASECNAN dam that irrigates thousands of hectares in the lowland provinces of Nueva Ecija and Pangasinan and other provinces is found within the ancestral domain of the Bugkalot tribe.

**Education of the Youth.** The IP tribal leaders expressed the growing awareness of the tribe on the importance of educating their youths. However due to their low standard of living, the Bugkalot youths could not obtain high achievement grades. Their low achievement grades limit their opportunity to avail of scholarship opportunities even in state universities and colleges (SUCs) within their reach. They requested that the grade requirement for scholarship from Bugkalot entrants be decreased to enable more to avail of scholarships in SUCs.

**Women Empowerment.** Bugkalot women do not access GAD budget. According to one woman leader, the 5% GAD budget is a policy emanating from the Women in Development Act or Republic Act 6192 which is already in force. The women were not aware of this opportunity for accessing resource for their development. The women stated that they need other income-generating projects or activities to engage on. The women requested to be assisted in organizing themselves. They acknowledged lack of knowledge and skills in project development and

management. They also expressed the need to augment the family income to enable their families to survive

***Livelihood Opportunities.*** The Bugkalots are mainly engaged in agriculture. Formerly a semi-nomadic tribe they are now realizing the need to settle in communities and exploit their ancestral lands and other natural resources. They have become corn producers but they need funding assistance for their crop production and for the handicrafts and weaving as well as bead-making that they can engage in and market altogether. But the fact that many of them have no titles to their ancestral lands, they can not access credit through the formal sources. They fall prey to usurers. . The Bugkalots complained of low prices of their products that render the production unsustainable and vulnerable to bad sources of credit. They could not bargain for better price for the corn they produce, and almost always, they are at the mercy of traders. They can not penetrate the market due to distance and bad roads.

***Skills Training.*** The Bugkalot women had skills in weaving, beads making and costume making. The men have skills in other handicrafts. They are able to access raw materials from the natural resources that are found in their large ancestral domain but their skills have to be honed . They have to be assisted in product designing and development and in skills in entrepreneurship.

***Access to markets for their products.*** Their barangay produces ginger in good quantity and quality but the price is low. They are at the mercy of middle traders who make more profits than the producers. They need assistance in finding markets for their products.

***Access to basic services and other opportunities through road repair and maintenance.*** The tribe aired that their roads are in dire need of repairs. Travel time becomes long. The members can not get the immediate services they need especially in times of emergency. During rainy seasons due to worsened road condition, far barangays are cut from the outside world.

## 2. **The Bago Tribe**

***Infrastructure and Services .*** A connecting bridge from the poblacion to the adjoining town; small farm irrigation; farm to market roads; financial



assistance for eco-tourism; assistance for marketing of products;

***Education for the Youth.*** There is a need to provide the youth with better education that would enable them to get employed.

***Education on IPRA Rights.*** The Bago tribe needs to be further enhanced in their knowledge about their rights especially their IPRA rights.

### **3. The Kankanaey Tribe**

***Lack of adequate information on the extent of damage to environment as a result of the Mining Operations.*** The Kankanaey tribe barangay members, lacking in education and expertise in mining are not aware of the extent of damage to the underground of the vast area subjected to open pit mining. What was left was like a desert land with open pits that have accumulated water of which the pollution level is not known. The barangay captain said : “Brgy.Lubo which was left by a mining company has become a wasteland and the community does not know the hazards left. They said they need technical assistance to ensure that the residents there will not become displaced again if anything happens to the environment due to the mining tails and excavations done there.”

***Internal Displacement of the Tribe Members.*** The mining operations had flattened the second tallest mountain in the area which used to be the farms of the tribes members. The mining company compensated some residents who left their farms and transferred to other provinces but as years went by these tribe members returned to the barangay . They have become landless as a result and had been affected in livelihood and cultural unity with the tribe.

***Development Aggression.*** The mining company left the place earlier than the planned period of exploration. According to the management, the company was losing. During their departure, there was no appropriate information to tribal leaders what they were leaving behind and how these could further affect the environment. The barangay captain recalled how their tribe tried to barricade the exiting personnel but still they could not maintain their control over them because of connivance from some of their own tribes members who were apparently corrupted with grease money from the exiting company.

***On The Ancestral Domain Sustainable Development and Protection Plan (ADSDPP).*** The kankanaey tribal leaders and local government officials who are themselves members of the tribe were one in requesting

for assistance in the dissemination of their ADSDPP to the tribe. This ADSDPP was prepared through a joint local government and non government effort but have not yet been disseminated and implemented. The tribe leaders said : “Our ADSDPP is not yet disseminated to the tribe because we don’t have funds to print it. We would also like to update the plan now that we have acquired more linkages through Metagora.” The tribe also felt the need to involve their youths in the formulation of the ADSDPP. They said : “Our youths have to be more involved in the planning and implementation of the ADSDPP”. It was agreed that the ADSDPP would be reviewed if it is in accordance with rights-based norms and standards. In a later meeting the tribe leaders agreed to enhance the ADSDPP to make it rights-based.

***Farming Technology System.*** The tribe’s members derive their livelihood mainly from vegetable farming but application of inorganic fertilizers and pesticides created the need for investment in these inputs . The inputs have become a concern due to continuous increase in prices at the local market in addition to the negative effect to the natural environment of the ancestral domain. The tribe members said : “Our farming system that has become dependent on use of inorganic fertilizers and pesticides need to be changed because our waters are affected.”

***Adequate Water Supply for Domestic and Agricultural Use.*** Although the tribe’s ancestral domain has rivers, streams and waterfalls that could generate adequate water supply, these natural resources are not developed and even threatened for pollution due to the use of harmful farming technologies. The tribe reported that in barangays where intensive vegetable apply much inorganic fertilizers and pesticides, their potable water has been affected. Lack of infrastructure that can keep their water was felt especially during the summer months when the tribe ‘s communities experience very inadequate supply of water for personal consumption. The tribe said : “ We also want to do reforestation in our watershed areas.We want a mini-hydro to improve our economy. How do we get assisted?”

***Preservation of Indigenous Cultural Customs and Traditions.*** The tribe felt the need to preserve their cultural customs, laws, practices and norms which are also threatened by the entry of modern cultural practices especially those imbibed by their youths from their interactions in their schooling and in employment outside of their communities. The tribe said : “Our culture needs to be preserved. We want to document our customary laws and practices for posterity “.

***Demand for Continuing Human Rights and IPRA Education.*** As a result of human rights and IPRA orientations conducted in the course of implementing this project, the tribe leaders recognized the importance of human rights and IPRA education which they find very useful for their full enjoyment of the rights to ancestral domains and lands. As rights claim holders, they realized that with adequate knowledge and skills in human rights and IPRA, they will be better prepared to protect and sustain the enjoyment of their rights. The tribe leaders said : “We need more human rights and IPRA education “.

***Reaction to Identification of Basic Delivery of Services by Government Agencies.*** During the consultation, the tribe members made the observation that the social services that the tribe had accessed from government were not mainly from DSWD Central /National Office but the devolved services to the local government units. They sought the findings to be corrected . They stressed that it should be their local government unit who should get the credit of availment and satisfaction rather than DSWD because the services that reached the tribe mainly came from their local government units. This reaction showed that the tribe can distinguish very well the sources of basic services delivered to them. It also further shows that the local government units are able to respond to their needs and thus facilitate fulfillment of their rights.

***Inaccessibility of Some Barangays for Lack of Roads and Land Transportation.*** Officials and leaders from one barangay had to walk for eight hours before reaching the town proper. Since the terrain was mountainous, it will take years before a road network can be constructed especially with the practice of determining return on investments when planning and approving projects for development in distant rural areas. The IPs who live in very distant and inaccessible areas are the most affected by this practice.

***Environmental Sustainability.*** The Kankana-eyes have begun understanding the need to sustain the environment in their ancestral domain. The area is the biggest producer of sayote vegetable. They said : “Our sayote farms are eroding the upland. We must find substitute crops that have a good market. We need technical development assistance for crops diversification.”

***Low Prices of Crops and High Inputs.*** Brgy. Madaymen produces much vegetables but markets are limited and prices are not very commensurate to the inputs. They stated : “ The inputs to farming is becoming our big problem.”

## **J. Concerns of the Tribes on the METAGORA Project**

1. The IP leaders asked if the findings of the study will be made known to the target tribes after completion. They expressed their observations that there was no information given to the IP communities who were subject of past studies. There were previous researches undertaken on IPs but the findings were not even disseminated and worst, there were erroneous results that did not depict authentic information about IPs. The project team assured that users' forums will be undertaken with tribe members after the data have been finished and analyzed.
2. There is a need to involve the IPs and everything undertaken within their ancestral domain. Those living in the hinterlands will not allow outsiders without consent of their tribe. The project team assured the continuing participation of the tribe leaders and members in many aspects of the study. Since the project consisted of undertaking a survey and focus group discussions and local consultations on their rights to ancestral domains and lands, the question of actual benefits that the study can provide to the Kankana-ey tribe was a major question asked. The project team explained how the study could benefit the IP community in being able to draw policies and programmes that would be relevant to the fulfillment of their rights as a people. There was also a question on what material benefits the study would bring to the tribe. The project team responded by stating that the methodology of the study takes into consideration the provision of opportunities for participation and empowerment of the tribe through their representatives who will be provided capability trainings and assigned specific tasks during the conduct of the survey and the focus group discussions
3. The mayor of Kibungan asked how the Metagora study would help the Kankana-ey tribe in meeting the development needs of their ancestral domain. The project team answered that the findings of the study would provide evidenced based findings that will be useful inputs in planning for the development of the Kankana-ey ancestral domain. The importance of information in planning was fully explained.
4. The policy implications of the study point to human rights actions in terms of policy and programme measures that need to be considered to strengthen the claims for the respect ,protection and fulfillment of the IPs rights to ancestral domains and lands. The roles of CHR and NCIP were highlighted in this respect. The roles of statistical agencies in measuring human rights appreciated.

5. For the three tribes there is a need for continuous interaction with the agencies that participated in the study is still needed to provide them with technical and other forms of assistance to create a better enabling environment for the fulfillment of their rights.
6. Some tribes mentioned that conduct of studies is not their immediate need. Actions are needed in order to respond to the various issues and concerns they raised in the pilot study.

## **POLICY IMPLICATIONS AND RECOMMENDATIONS<sup>7</sup>**

### **A. Harmonization of Laws affecting implementation of the Right of the Tribes to Ancestral Domain**

On the basis of the powers of the NCIP, the Commission does not allow the operational undermining of IPRA by other laws. Several decisions rendered by the Commission en banc manifest upholding the rights of the IPs/ICCs to their ancestral domains and to Free Prior informed Consent (FPIC). While the IPRA warrants full measures for the enjoyment and protection of the rights of these three (3) tribes, there is a need to review the implementation of the Act on the ground in relation to other existing laws.

The NCIP, which is the primary government agency responsible for the formulation and implementation of policies to promote and protect the rights and well-being of the Indigenous Peoples and the recognition of their ancestral domains as well as their rights thereto, should initiate review of the inadequacies experienced in the implementation of the IPRA especially when applied to specific case disputes involving the rights of the tribes to ancestral domains.

As part of its functions, the Commission is currently bent to fast track the formulation of guidelines upholding and asserting the rights of the IPs/ICCs to self governance through the creation of tribal barangays which will adopt the traditional leadership structures, forms of governance and justice systems of the IPs/ICCs in matters involving settlement of case disputes. In addition, the NCIP may seek the cooperation of concerned Local Government Units (LGUs) to pass local ordinances that will enforce site-specific policy guidelines to enhance protection of the rights of the concerned tribes.

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<sup>7</sup> This section of the policy paper was developed as a result of a Validation Conference conducted by Region 1 under the management of Atty. Anita Chauhan and special technical assistance provided by Atty. Homer Matthew Rusiana and Nerissa Navaro Piamonte

On the lack of awareness of the tribes on their rights to ancestral domains and ancestral lands, appropriate administrative measure to be adopted by the NCIP for the implementation of massive information, Education and Communication (IEC) Program is necessary that would involve concerned LGUs and People's Organizations (POs). In order for the NCIP to undertake this, corresponding budgetary appropriations by the Congress would be required to strengthen the institutional capacity of the NCIP.

## **B. Realization of the Rights to Ancestral Domain through Acquisition of Titles**

The delineation and titling of ancestral domains/land carries the concept of recognizing time immemorial ancestral domain/land ownership by the IPs/ICCs. This concern necessitates policy consideration on culture sensitive delineation processes.

A comprehensive review and documentation of the customary laws of the three (3) tribes need to be harmonized with the IPRA especially their application to the intent and process of the issuance of titles. In general, the customary decision-making process of indigenous peoples in the Philippines are reached either by the vote of the eligible individuals comprising the indigenous community or a decision by the Datu or Council of Elders. Adequate policy guideline harmonizing these customary laws is imperative to ensure sufficient consultation and informed consensus among members of the community pertaining to acquisition of titles.

Concerned LGUs could pass appropriate ordinance providing for local capacity building among local officials and Peoples Organizations (POs). The Congress would need to undertake an oversight review of the institutional and funding capability of the NCIP to supervise implementation of capacity building programs for these three (3) tribes and other tribes in the country through the enactment of adequate budget appropriation for the IEC Program component of the IPRA. The capacity building program should focus on raising awareness of acquisition of title to ancestral domain, land ownership and modes of acquisition, establishing evidence of land ownership and specific actions to be undertaken to obtain land ownership.

## **C. On the Duties and Obligations of the Tribes over the use of Ancestral Domains and Ancestral Lands**

A national legislation is imperative, providing guidelines for the regulation and improvement of ancestral lands, creating an inter-agency task force or council at the local level to oversee improvements on ancestral lands and providing budgetary appropriation thereof. The creation of the task force or council should be harmonized with or taken in the context of the traditional leadership structures, forms of governance and justice systems of the IPs/ICCs.

#### **D. On Violation of Rights to Ancestral Domain and Ancestral Land**

Being located in far flung areas IPs/ICCs are vulnerable if not prone, to all forms of human rights violations from the continued usurpation of their ancestral lands and domains to violations of their individual and collective rights.

The need for Special laws on the use of ancestral domains and ancestral lands with corresponding local ordinances for local implementation is also necessary to respond to issues and violations like land grabbing, mining concessions, municipal and barangay boundary disputed, reported cases of relocation and resettlement and other forms of human rights violations.

On the part of the NCIP, administrative measures should be undertaken regarding the review of the implementation of the FPIC from which violation of rights emanate. Such review could be directed at policy amendment and revision of the existing FPIC guidelines. It is imperative that this review considers consultations with relevant government agencies and civil society organizations.

Likewise, concerned LGUs ought to pass a local ordinance on the protection of the rights of the indigenous tribes within their areas of jurisdiction.

#### **E. On Mechanisms for Grievance and Redress**

Local laws or ordinances should be undertaken by concerned LGUs for the review and codification of customary law on modes of resolving conflicts and other specific customary practices of the tribes.

Also, the NCIP ought to review its existing mechanisms for grievance and redress of the Indigenous Peoples, to include these three (3) tribes in particular. This review has reference to the effectiveness of the NCIP in the performance of its three major functions: Administrative/Executive, Quasi-legislative and Quasi-judicial. It includes the review of its various local mechanism such as the Regional Hearing Offices (RHOs) in every NCIP Regional Office to hear and decide cases on land disputes and violations of NCIP promulgated guidelines. NCIP's RHOs as well as the appeal of cases decided upon at the RHOs can only be appealed at the NCIP Commission en banc and eventually at the Court of Appeals. How customary laws and practices figure into these mechanisms of the NCIP and the government in general is one major policy consideration.

#### **F. On other Measures of the Government to protect Indigenous People's Rights**

As part of their accountability and obligation, concerned LGUs need to adopt administrative measures to enhance a more coordinated and effective delivery of services of government agencies especially the Department of Agriculture (DA), Department of Health (DOH) and the Department of Social Welfare and Development (DSWD). The specific assistance and services of these organizations and all other government

institutions should be clarified in terms of effectively accessing and availing them. At the oversight level, the NCIP ought to craft an Information, Education and Communication Program for the Indigenous Peoples towards raising their knowledge and awareness related to access to services issues of the IP communities.

Specific assistance and services to which the LGUs, government agencies and NCIP must respond include such concerns as follows:

- Administrative measures that re harmonized with customary laws and practices through which the NCIP and concerned LGUs would be able to facilitate the formulation and implementation of the Ancestral Domain Sustainable Development and Protection Plans (ADSDPPs) as the blueprint for development communities of the tribes. The Tribes should be capacitated to drawing up the ADSDPPs to ensure sustainable use of their resources, provide social security and improve their standard of living. As a further concern the Council of leaders with representation from the youth should be considered in the crafting of the ADSDPP to ensure the use and harmonization of the customary laws and practices in the designing of plans that would address the problems and concerns of the tribes.
- Administrative actions or steps that are harmonized with customary laws and practices through which the NCIP and concerned LGUs may be able to provide adequate protection to the sources of livelihood of the tribes. The NCIP and concerned LGUs should jointly undertake steps to fast track the delineation and titling of Ancestral Domains and Ancestral Lands in order to safeguard the source of livelihood of the tribes, to ensure infusion of capital for livelihood and sustainable use of resources in consonance with the will of the tribes.
- Administrative measures and mechanisms which the NCIP and concerned LGUs may adopt to regulate the entry of migrants and other entities for purposes of resettlement or large scale projects, encroachment and selling of lands subject to an enhanced FPIC guidelines that are harmonized with the customary laws and practices of the tribes.

## **PROSPECTIVE STEPS**

Overall, this policy paper on the three (3) tribes (Bugkalot, Bago and Kankanaey) calls for immediate policy actions from the NCIP and concerned LGUs in consultation and cooperation with the Council of leaders of the Tribes.

There are policy recommendations that should be acted upon by the Philippine Congress and other relevant government agencies but these should not actually precede local policy actions.



As this policy paper originated from a bottom –up research approach, the follow up policy measures and actions are also expected to be Indigenous community-based. The situation of the three (3) tribes while carrying some similarities with the condition of other indigenous communities in the Philippines have some peculiarities on account of the cultural diversities prevalent among Indigenous peoples in the country.

Prospective steps desired as a follow through to this policy paper is the creation of a Special Task Force to be created by the NCIP at the Regional level that would look into short term and long term plan of action to implement the recommendations contained in this policy paper.

Meanwhile that the NCIP is considering its prospective steps, the Commission on Human Rights of the Philippines (CHRP) ought to officially disseminate to the three (3) tribes the status of this policy paper and its official endorsement for action by the NCIP and other concerned authorities both at the local and national levels.

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